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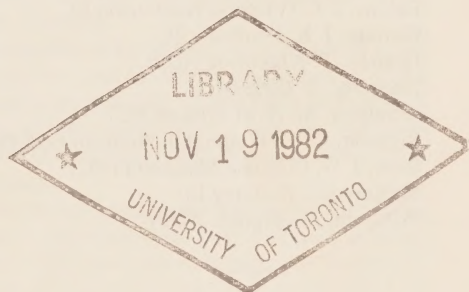
No. G-1

# Legislature of Ontario Debates

## Official Report (Hansard)

### Standing Committee on General Government

Estimates, Ministry of Consumer and Commercial Relations



### Second Session, Thirty-Second Parliament

Wednesday, November 3, 1982

Morning Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC



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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, November 3, 1982

The committee met at 9:43 a.m. in committee room 1.

After other business:

### ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

**Mr. Chairman:** The next item on our agenda is to get on with the business that has been referred to us by the House, namely, the estimates of the Ministry of Consumer and Commercial Relations. The minister is here.

There is one discussion that I think should take place. I understand a number of the committees are not going to be sitting next Wednesday. Does this committee wish to sit next Wednesday?

**Mr. Dean:** I understood the Legislature had given committees the choice as to whether they will sit or not. If I may express an opinion, I think it would be an excellent opportunity to take a day off.

**Mr. Swart:** I know at least one other committee, the justice committee, has already determined it is going to take next Wednesday off. I believe I am right in saying that.

**Mr. J. A. Taylor:** Armistice Day is on Thursday.

**Mr. Swart:** I know Thursday is Armistice Day. I think it is reasonable. We started about three or four weeks earlier than we had intended. If the rest of the members of this committee are as far behind in their correspondence and other responsibilities as I am, we will need that time off to deal with those. I will so move, if a motion is needed, that we do not sit next Wednesday.

**Mr. J. A. Taylor:** Some of us have to get back to our ridings because of the number of Armistice Day ceremonies.

**Mr. Chairman:** We have a motion that we do not sit next Wednesday.

Motion agreed to.

**Mr. Chairman:** There is one further item I would like to deal with rather quickly. We have some additional private bills which have been referred to us, the City of Sarnia Foundation Act and the Town of Strathroy Act. I understand there is no concern from the ministry

particularly on those items. I wonder if we might, the next day we sit, which would be two weeks from today, deal with those at 9:30 in the morning prior to the estimates. If that is agreeable, we will notify the communities.

**Mr. Swart:** Mr. Chairman, I presume we are now going into the estimates of the Ministry of Consumer and Commercial Relations; that is the purpose for us being here today. I would like to make a proposal and put it in the form of a motion. I think it will be noncontroversial. I may be anticipating something that may not turn out that way.

**Mr. Chairman:** Mr. Swart moves that after the leadoffs are finished and after we deal with vote 1501 the next item the committee consider be vote 1508.

**Mr. Swart:** Vote 1508 is the Residential Tenancy Commission. If I may speak to that, I think everyone here, including the government members, realizes the major issue before this government at present and before the tenants of this province is the rather dramatic increases in rent, particularly in the Cadillac Fairview Corp. Ltd. situation.

Members will know my party has felt strongly about this and has frequently raised it in the question period. The Liberal Party referred it to one of the committees I was on and that committee determined it should be dealt with in estimates.

We have dealt with the Ministry of Consumer and Commercial Relations estimates, which I have been involved with during a number of years, in a number of ways. Normally, when we deal with them, we just start down the list and finish what we can. If there is not enough time, the ones at the tail end are left off.

Members of the justice committee last year will remember we set up a schedule on a motion by the member for St. Catharines (Mr. Bradley) where we allotted certain hours for each one. That did not work out very well because we could not confine ourselves to those time slots. Then we had to determine where the extra time was going to come from.

To make a sort of a compromise, I would be quite prepared to put a reasonable time limit on

the Residential Tenancy Commission, if someone wishes, so we do not spend the whole 20 hours on it. I do feel we should be in a position right from the beginning to have time for a thorough discussion and examination of this situation, particularly the Cadillac Fairview situation, and also what is happening generally.

**Mr. J. A. Taylor:** In estimates?

**Mr. Swart:** In estimates.

**Mr. J. A. Taylor:** What time should be allotted?

**Mr. Swart:** I am suggesting four or five hours. I do not think that is unreasonable at all for the Residential Tenancy Commission. We have what, 20 or 25 hours, Mr. Chairman?

**Mr. Chairman:** Twenty hours.

**Mr. T. P. Reid:** It is more like 15.

**Mr. Chairman:** The clerk tells me 20 hours.

**Mr. Breithaupt:** That is not what is on the Order Paper.

**Mr. Chairman:** Excuse me, we have the Order Paper here.

**Mr. J. M. Johnson:** Let us not waste time. Put the motion and we will support it.

**Mr. Swart:** Okay.

**Mr. Chairman:** Let us determine it. I understood it to be 20 hours.

**Mr. J. A. Taylor:** Let us find the time. It is not unusual that items be dealt with out of order in estimates. Often they have been dealt with in item 1.

**Mr. Swart:** Mr. Johnson said not to waste any more time but vote on it. I am prepared to do that and not put any time limit on it. We will be reasonable.

**Mr. Chairman:** I feel there should be a time limit on it. The clerk has gone to find out exactly how many hours we have.

**Mr. Breithaupt:** While he is doing that, during the three years I was critic for this ministry, we attempted to set up a schedule each time, mainly because there are so many areas of concern in this ministry that one member might have an interest in the companies branch and somebody else might have an interest in rent review or horseracing or whatever. It was not fair just to get bogged down on one vote while the other members had interests in other areas.

I think the way it has worked, to a degree at least, has been to try to block out the time so we can look at the various aspects of this ministry fairly. The person who has an interest in film censorship can have as much of a chance as the

person who has an interest in liquor legislation to make his points and get a fair shake.

I have no objection to the Residential Tenancy Commission vote being the second one we deal with. That seems to be the issue that has a higher profile at the moment than some of the many other things this ministry includes. I would think it might be worth while for us to agree that today we would, without question, deal with the opening comments of the minister that Mr. Swart and I, as the critic pro tem at the moment, will have, as well as comments other members may have, and agree to pass vote 1501. Then in two weeks' time, which would be November 17, we would deal with vote 1508 as the next item.

**10:50 a.m.**

As we see how that goes along, and that would be the second of the days and may take maybe another five hours, that would make 10 hours and we would have then five hours left. It is 15 hours, is it?

**Mr. Chairman:** It is 20 hours.

**Mr. Breithaupt:** That then gives us four days, in effect, for this ministry.

**Mr. Chairman:** Right.

**Mr. Breithaupt:** Four Wednesdays. This Wednesday we could deal with vote 1501. Then perhaps we can agree that next Wednesday we would deal with the Residential Tenancy Commission, vote 1508, because it and rent review and these other matters are of interest in all of our ridings, I am sure, and it seems to be a major area. Then we could divide the remaining two days, or whatever it is, among the other votes.

If we divide them on November 17, that will not keep members of the staff sitting here waiting for things. They will know, for example, that votes 1502, 1503 and 1504 will be dealt with on the third day, and votes 1505, 1506, 1507, for instance, will be dealt with on the fourth day. They will then not be sitting around and can get on with whatever it is they do in their particular aspects, and we will have sorted out the procedure.

I would suggest the motion be that the committee today deal with vote 1501; that on November 17 it deal with vote 1508; that on November 24 it deal with votes 1502, 1503 and 1504 and then finally on the last day, December 1, in whatever odd hours may be left, we would complete votes 1505, 1506 and 1507. Then everyone will know where we are at and they can plan. If a certain member has an interest—not necessarily on the committee, but in a



particular area—he will know to show up that day. I think it may go in a balanced way.

**Mr. Swart:** I have no objection to that. I think we should order the remaining time, after we deal with rent review. One never knows what may come up between now and then. We may want to spend more time on one item than we do on another. I do not have any disagreement with what has been put forward. If it is the wish here that we have a time limit on the residential tenancy issue, I would be willing to have that five-hour maximum limit put on it. My motion is on the floor.

**Mr. Chairman:** Yes, it is.

**Mr. Swart:** Perhaps we should proceed with my motion, which will deal with that one issue. If there is another procedural motion we could deal with it then.

**Mr. Chairman:** Basically, Mr. Swart's motion is the first half of what Mr. Breithaupt is suggesting.

**Mr. Swart:** Right.

**Mr. Chairman:** The third and fourth week from now is not included.

**Mr. J. A. Taylor:** Why does he not enlarge his motion to incorporate Mr. Breithaupt's suggestion?

**Mr. Swart:** I am not sure exactly what the motion was. It was that we not spend more than five hours in two weeks on this.

**Mr. Breithaupt:** It would mean we would spend the day of November 17 on that vote. That would be morning and afternoon, so the five-hour proportion would be more than accommodated. Everyone would know when the vote would carry and we would get on in the last two weeks with, as I had suggested, on November 24 votes 1502, 1503 and 1504 and on December 1 votes 1505, 1506 and 1507.

We will know when the votes are being called. The caucuses can be informed. If someone has an interest in the Liquor Licence Board of Ontario, he had better show up on December 1, that kind of thing.

**Mr. Swart:** I'm willing to deal with it in one of two ways, either incorporate that in mine or else withdraw mine and—

**Mr. Breithaupt:** Incorporate it.

**Mr. Swart:** Okay, I'll incorporate that in my motion.

I presume, Mr. Chairman, that if emergencies arise, of course, as we are an autonomous group we could change those procedures down the line. It seems it's a good procedure as set up now.

**Mr. Chairman:** Do we have agreement on that?

Motion agreed to.

**Mr. Breithaupt:** When does the clock start, by the way?

**Mr. Chairman:** It did start, didn't it? It was 10:45. It has been running for 10 minutes.

**Hon. Mr. Elgie:** Mr. Chairman, I wonder if I could raise a point about a problem I have. I understand that there have been motions in the justice committee that I be in attendance in that committee at the times when that committee reaches the price portion of the wage and price restraint bill. I had planned on doing that in any event, but it may present me with a problem since I do know that committee sits on Tuesdays, Wednesdays and Thursdays.

I wonder if I may have the committee's approval for my parliamentary assistant to sit on this committee when my attendance is required at the other committee. I know it produces some problems for all of us, but I have that particular problem facing me. It may not be reached.

**Mr. Breithaupt:** I think we would be happy to accommodate you, depending on when it may happen. Why not? That's only fair.

**Mr. J. M. Johnson:** Certainly.

**Mr. Swart:** Is there going to be any conflict there, due to the fact that your parliamentary assistant has given some leadership in the justice committee on those very issues? In any event, that's something you have to work out. I'm agreeable.

**Hon. Mr. Elgie:** I trust you'll give me a chance to talk it over with him and see if he sees any difficulties with that committee. I don't see that I can function any other way.

**Mr. Chairman:** That's agreeable to everybody then.

**Hon. Mr. Elgie:** Mr. Chairman and members of the standing committee on general government, I think it's no exaggeration to say that there is no one in this province who is not affected, and I suggest affected on a daily basis, by the programs, projects and policies of the Ministry of Consumer and Commercial Relations.

**Mr. Swart:** Mr. Chairman, on a point of order, if I may: Do you have copies of your speech? If you do, I would like to have one. I may want to make notes on it.

**Hon. Mr. Elgie:** If they are not here, they will be here in a moment. They were being printed this morning.

It is a ministry that has been given the tough



responsibility of supervising and sometimes regulating the Ontario marketplace. We all know it is a big marketplace, made up of both simple and complex dealings between suppliers and consumers of goods and services, but I am constantly reminded that it is a marketplace made up of people, people with real flesh and blood, needs and problems.

In the almost nine months since I have assumed responsibility for this ministry, I have discovered that its role in this marketplace, mandated through over 72 acts and dozens of regulations, makes it one of the most diverse and challenging in the provincial government. It will be no surprise to any of you that these are tough times to be in business and these are difficult days for consumers. To that end, this ministry has had to respond with concern and plan with creativity for the change that is going on all about us.

Before I get into a report of some of the initiatives and accomplishments of the ministry, I would like to take a few moments to give the members some examples of how we have dealt with some of these changes over the past year.

For instance, propane conversion of automobiles has become an increasingly popular alternative for use in cars and trucks. My ministry was already involved in ensuring the safe conversion and filling of all such vehicles and is indeed working on further regulations to further ensure that safety.

With recent suggestions that some connecting hoses might be subject to leakage, we have moved to retain an expert in this field, Dr. Orland Schaus, to test this equipment. Indeed, a number of propane tubing samples have been removed from Ministry of Transportation and Communications cars that have been converted, and those, along with any other material that is available, are part of this study and review by Dr. Schaus. Dr. Schaus, of the Canadian Gas Research Institute, is expected to report back to me with those results in a very few weeks.

**11 a.m.**

I might also refer to our chimney-liner campaign. I would like to think we have taken a leading role in co-operation with industry and the federal government in spreading the word to Ontario consumers about the possibility of some dangers with relation to old-fashioned, brick-lined chimneys continuing to be used with gas furnaces.

It is of interest to note that twice during 1982 our travel industry compensation fund was called into operation to save Ontario travellers

from the consequences of the sudden collapse of a travel company.

We have also responded to rapidly developing issues that are of real interest to consumers but are not covered by specific legislation. It was this ministry, for example, that warned Ontario residents about unscrupulous door-to-door salespeople selling heat detectors as a better in-home safety device than smoke detectors.

We have, as well, recently investigated the enormous fluctuations and variation in jewellery and gem appraisals and passed the information along to consumers through the media.

We have also recently warned potential buyers of recreational vehicles of the risks involved in a major investment without assurances that no liens were still outstanding.

I would also like to mention our efforts in developing innovative financing as a creative way of providing needed service at minimum cost to the taxpayer. Several joint industry-government financing ventures are in place or soon will be. This type of financing, I submit, results in less direct expenditure on our part, but not less service for our clients.

For example, I may refer again to the travel industry compensation fund, which I will describe in greater detail later. It is providing Ontario travellers with critically needed protection against industry failures. It accomplishes that goal with funds provided by the travel industry itself. In the works is a similar plan to cover purchases made from motor vehicle dealerships that fail before delivering a vehicle that has already been paid for.

Further efficiencies have been made possible through streamlining the ways in which we deliver service to the public. Our companies division implemented legislation in 1979 which reduced incorporation time and, for the first time, made so-called over-the-counter incorporation available to Ontario businesses.

Another example of innovation and far-sightedness is our Polaris program. This program will ultimately redesign the whole land registration system and allow the system to be self-supporting two years after it comes on stream.

Privatization is a valid and worthwhile goal for some ministry functions. As many of you will know, we have transferred the regulatory responsibility for insurance brokers from this ministry to an industry-regulated body called the Registered Insurance Brokers of Ontario. The cost of this program is now borne directly by the private sector.

Doing these things in co-operation with other responsible bodies is an obvious way to cut costs and to maximize effectiveness. Since 1979 the business practices division has been working with the Metro Toronto police auto squad on a cost-share basis to fight the problem of odometer tampering. The project has produced a high number of charges and convictions at no additional cost to the ministry.

To better use the funds available to this ministry, program managers participate on an annual basis in a process to reallocate funds within our own operation. About \$8 million was reallocated in the past fiscal year to programs which needed funding, as well as for new projects.

In spite of the financial constraints facing all of us, we have seen dedication and innovative leadership in the Ontario Securities Commission, for example. It will be no surprise to you to be told that that commission is recognized in this country as the leader in securities legislation.

Our pension commission's guarantee fund, one of only five such funds in the world, is considered a landmark in the field of pensions and is presently before the House for amendment. Of particular note in those amendments is a provision which aims at a measure of added protection for women who may be divorced or separated and who should receive support payments. The proposed amendments would allow for the enforcement of payment of such support from the pensions of former spouses on the same basis as is normally allowed under the Family Law Reform Act.

Those are but some of the creative accomplishments in a ministry that is technically one of the smallest ministries in the government, but there is nothing small about its mandate to create and maintain a fair, honest and safe marketplace. In fulfilling that mandate, the ministry touches the life of virtually every citizen in Ontario.

As I outline the policies and plans of this ministry, I would be remiss if I did not take the opportunity to thank each and every ministry employee publicly and praise his efforts on behalf of the citizens of Ontario. It is not easy to work under considerable financial restraint, as demanded of today's public service, but from what I have seen, and I say this quite sincerely, the public service has responded admirably and with an increased productivity that speaks to its competence and dedication.

Over the last five years, the consumer ministry's expenditures have actually decreased by

some 14.4 per cent in constant 1982 dollars, while protection for the consumer has been maintained at least at the same level and in many cases improved. I think the entire staff of the ministry can look to that achievement with some pride. Without their efforts, the programs and policies I am about to outline in these brief remarks could not have been undertaken with the vigour or with the success that we have had.

The challenge this ministry's staff faces is readily summed up as one of continuing to fulfil a broad mandate more effectively and efficiently with financial resources that are likely to shrink. This is a difficult challenge, one that demands imagination, ingenuity and will, in the form of sound and far-sighted management of fiscal and human resources.

I have already mentioned that expenditures have decreased in current real dollars over the past five years, but the fact that transfer payments in other ministries have nearly doubled and that the work load in some programs in our ministry has quadrupled during the same period puts budget reductions in an even clearer perspective.

Having to deal with the reality of restraint, but at the same time wishing to keep a high level of service over the past two or three years, the ministry invested about five per cent of its dollars to streamline, upgrade and make its own operations more efficient. The need to review responsibilities, the need to evaluate what the scope of many of our programs should be, the need to evaluate how to handle additional work loads, and the need to review assumptions on the mix of fiscal and human resources and the way they are used have become more pressing than ever.

The marketplace which the ministry is expected to keep fair, honest and safe is becoming increasingly complex. Consumers face adverse economic conditions and rapid technological change.

I mentioned earlier that this ministry is perhaps the most challenging within the government. Let me explain why. Ontario and Canada face a future that is more uncertain than at any other time in our recent history. I don't say that as a purveyor of gloom and doom, but I do say that, however, because it makes the point that we cannot go forward from here with anything but a co-operative posture. If all the segments of our society can see the inherent strengths in our economy, build on the many opportunities that exist, and reach for agreed-upon goals, we will succeed in overcoming our problems.

It seems to me that this ministry, spanning as it does the two worlds of commerce and the consumer, is well placed for the kind of co-ordinated response society requires. The ministry's essential task, as I said earlier, is to maintain a free and fair marketplace in Ontario, where the interests of both business and the consumer are fairly balanced. While in the long run the return of sustained economic growth will mean a more healthy market, each economic cycle presents its own new challenges for the people of Ontario and for my ministry.

Whatever the economic climate, this ministry's main function includes setting and enforcing standards of corporate conduct and individual responsibility in the marketplace. We are here to ensure that consumers are not victimized by the dishonest or the unscrupulous. At the same time, we have a responsibility to provide business with an environment in which it can respond and thrive within an ever-changing marketplace.

11:10 a.m.

Our responsibility extends to ensuring that both sides in the marketplace equation have sufficient information about each other to arrive at a sensible and sound agreement, be it a simple retail sale or a complex real estate transaction. When the marketplace works and works equitably, government intervention is not likely to be required. When, however, there are unfair encounters or systematic abuses on either side of the transaction, a third party—in this case government—may well be required to adjudicate or to set and enforce standards that reflect the codes by which society wishes to live.

For example, the operator of a Toronto-based private school offering high school programs to foreign students was convicted of misrepresentation under our Business Practices Act and fined \$500, given five months probation and ordered to reimburse \$6,650 to his three victims. The school's brochure depicted a library that did not exist and offered courses that were not available at the time.

That philosophy of intervening when it is justified, I hasten to point out, lets no one off the hook. Both business and the consumer must follow certain standards because, although it is not the intention of the government of which I am a member to intervene willy-nilly in the affairs of society, we recognize that there are times when ministry involvement is essential for stability and order in the marketplace and for fairness for all sides.

This ministry then is both an educator and an

overseer. This ministry must constantly assess competing interests and ensure a continuing balance. There are several excellent examples—examples that I will touch on in a moment—where a particular industry or industry group has shown the capacity for self-regulation. Where that is possible and dependable, then it is by far the preferred route.

Let me deal first with the consumer side of the equation. While many steps have been taken during the past years to protect the consumer, there can be no complete substitute for the common sense that goes with the historical phrase, "buyer beware." Considerable responsibility for any purchase of goods or services must rest squarely on the shoulders of the individual consumer. Having said that, I am not suggesting that the consumer should find himself or herself in the position of being a lamb surrounded by hungry wolves. There are laws that set minimum standards for corporate and business behaviour.

In the overwhelming majority of consumer dealings these standards are met and exceeded. Nevertheless, an informed and aggressive consumer remains the best defence against most ripoffs. The ministry has long recognized this as a basic fact of life in Ontario and has, therefore, created numerous programs and policies that aim to make consumers in this province well informed and as up to date and self-reliant as possible.

Of course, there are occasions when consumers are cheated by unethical operators. The ministry has, I believe, established a reputation for dealing effectively and quickly in such instances of predatory or illegal behaviour that can only be described as blatantly unfair. Fortunately, instances such as these represent only a tiny portion of the total number of transactions that take place. The vast majority of businesses are run by men and women who conduct themselves in a fair and honourable manner.

It is worth noting, I think, that responsible people in business have themselves long realized that their interests are also served best by ridding the marketplace of fly-by-nighters, con artists and unscrupulous operators. The continued existence of such individuals harms ethical businesses. Self-regulating business and industry associations can help check the incidence and spread of such illegitimate operators. In the face of constraint on the public sector, it is an appropriate time for government to put faith



back in those industries and industry organizations that have proven they deserve it.

In general, what government can do best is to help consumers help themselves and offer protection where consumers cannot be expected or are not equipped to help themselves. That help comes in many forms. The consumer information centre, for example, is located at 555 Yonge Street in Toronto. It currently handles approximately 400 telephone inquiries per day in French and in English. These calls to the centre originate from points right across the province and are accepted on a collect and toll-free basis. A total of 107,000 inquiries of all types were received, for example, in 1981-82, an increase of more than 46 per cent over the previous year. On an informal basis ministry employees also act as translators and in this way provide service to the public in more than 50 languages.

In addition, the information centre runs some 22 workshops each year, workshops for those who guide and counsel consumers throughout the province. These individuals, who come mainly from community information centres, are given intensive seminars on the subject of consumer rights and responsibilities in the province. Other forms of communications are carried out through our education outreach program with pamphlets, kits, tapes and workshops to assist those disadvantaged consumers with special problems, such as the aged and the disabled.

Last February, for example, the ministry distributed insurance kits to every English-as-a-second-language teacher in Ontario. The kits, developed by ministry personnel and combining English language instruction with a lesson on insurance, have been extremely well received and have helped thousands of new Canadians whose native language is not English to understand the forms of insurance they are buying for themselves and for their families.

In the coming year we will step up our consumer education outreach program. For example, we will continue to help communities to develop their own consumer education services. We will develop an English-as-a-second-language teaching kit on buying a car. We will make regular consumer interest columns in both English and French available to weekly newspapers across Ontario. We will also continue our important campaign to make consumers aware of potential problems they may have with masonry chimneys.

We have discovered that our willingness to try new conservation methods have, in some

cases, leap-frogged ahead of the capability of some homes to accept the method. For example, masonry chimneys in most homes were designed for the fuel-hungry furnaces of another era. Today's fuel-efficient natural gas-fired furnaces exhaust much less heat through the chimney partly because of better insulated and more air-tight homes. This cooler exhaust has a tendency to condense on the inside of chimneys, and if they are unlined, this can result in the partial collapse and possibly the blockage of the flueway. A blocked chimney, in combination with a well-sealed home and a resulting shortage of oxygen for combustion, can result in the generation of poisonous carbon monoxide gas. This month we are arranging to have more than 70,000 individually addressed letters sent to homeowners who have taken advantage of federal incentives to convert from oil to natural gas to advise them about the problems that can be associated with conversion.

Chimney liners and proper ventilation after caulking are only two areas where our information services branch played a leading role in helping Ontario residents become better consumers during the last year. In addition to dealing with the media on consumer-related issues on a day-to-day basis, the branch has produced radio programs, television shows, consumer survival guides and a teacher's manual. Six new consumer information pamphlets have been produced and more than half a million of these booklets have been circulated to an interested public. Some of these brochures are available in braille and some are on tape for the blind. As well, a visual ear, a device which enables us to communicate with the hearing impaired has been installed in the information centre.

In the very important area of bilingual services, our French language policy continues to extend the services of the ministry to francophone residents and businesses throughout the province. We are considered a model for the provision of French language services for other ministries in this government. On that subject, I would like to announce that in co-operation with TVOntario, the federal Justice ministry and our own Ministry of the Attorney General, we will soon start production of a 13-part TV series in French on how the law affects Ontario citizens.

**11:20 a.m.**

A growing number of ministry business forms, such as those for registration of real estate transactions and registration of business part-

nerships, are now available in French as well as English. In addition, seven special workshops were conducted last year for French-speaking consumer educators in such widely placed centres as Sudbury, North Bay, Ottawa, Hawkesbury, Windsor, Welland and Toronto. These seminars were welcomed enthusiastically by the host communities and were commended in the national magazine of the Consumers' Association of Canada.

To digress for a moment, I would like to say that in my opinion, the Consumers' Association of Canada is one of the best versed and well-intentioned public interest groups in the country. Their wide membership and nonpartisan performance make them a welcome group with which to deal. Last March, for example, shortly after I became minister, I invited the leaders of the Ontario chapter of the Consumers' Association of Canada to meet with me and we had very useful discussions on issues of mutual interest. It is my intention to continue to meet with the Consumers' Association of Canada executive and members, for, after all, this is the single most authoritative voice for consumers.

We cannot tackle the problems alone and I am happy to share my thoughts about possible solutions with appropriate organizations, because only by harnessing the knowledge and expertise of business, labour and consumers can we achieve the kind of co-operative approach towards society I believe all of us want.

Another area where such co-operation is essential is with Ontario's ethnic communities. Consumer education programs must be put in place to increase awareness of ministry services among Ontario's various ethnic and cultural communities. I am particularly concerned that many of the consumer problems which we deal with on a constant and ongoing basis are a result of language difficulties encountered by the ethnic communities.

We are working hard to expand access to information in other languages and we plan to work as closely as possible with the communities themselves to develop and deliver consumer programs that will best serve their needs. This represents an exciting and important area of activity for the ministry. We are expecting the results to be useful and educational for all involved.

Working hand in hand with the ministry consumer awareness programs are the consumer protection initiatives of our business practices division. As its name implies, this division is heavily involved in the investigation

of complaints and offences and in the prosecution of offenders under the consumer protection legislation. Last year the consumer advisory services branch processed almost 14,000 complaints.

The bureau performs two major roles. The first is to record and screen complaints about potential legislative violations. Second, it performs a mediation role for consumers seeking resolution of problems they have encountered in the marketplace. Last year this unit recovered some \$2.3 million for Ontario consumers.

The division's investigation and enforcement branch took part in some 218 investigations, which resulted in the laying of 553 charges, including 74 companies and individuals charged with carrying out illegal odometer rollbacks on used cars.

In one case, the owner of a dance club was convicted on seven counts of misrepresentation, fined a total of \$12,250 and placed on three years probation. This man had been preying on elderly and lonely women and inducing them to pay up to \$100,000 for lifetime memberships in his club. In another instance, a furniture dealer-ship was ordered to pay \$1,650.50 in restitution to victims who had paid for but had not received various goods.

I said earlier that we must constantly review the marketplace to determine which consumer interests need to be protected. This need is not always linked to criminal or other illegal activity. What we are also finding in these pressing economic times is the need to protect consumers when businesses collapse.

One very highly publicized example occurred earlier this year when Laker Airways folded. In Canada about 10,000 residents stood to lose almost \$4 million. Quick action by the travel branch of the ministry prevented this from happening. By freezing those funds held by Laker immediately after the company's demise, the ministry was able to ensure that money paid was returned to Ontario consumers.

An even more dramatic case involving the ministry and the travel industry occurred last April when Caltrav Holdings Ltd. abruptly ceased operations. Caltrav was the holding company that controlled Sunflight Vacations and Skylark Tours. Even before the ink was dry on the documents calling for voluntary liquidation of Caltrav's assets, the emergency committee of the Ontario division of the Alliance of Canadian Travel Associations had joined with officials of our ministry to bring about a resolution of the problem. Every possible step was

taken to ensure that those who had booked flights scheduled to leave during an initial two-week period following the collapse would receive the services for which they had already paid.

A team of industry volunteers joined with our staff members to work around the clock and rearrange bookings. As a result, some 3,000 customers were able to reach their destination and return, with a minimum of disruption. In fact, fewer than 100 vacationers were forced to cancel their trips during that period. These customers who had booked trips leaving later will be compensated by the industry-financed travel fund.

The fund will be paying out approximately \$2.4 million in connection with the Caltrav collapse. This enviable consumer protection was achieved at virtually no cost to the taxpayer and it stands as a classic case of an industry paying for the protection of its own customers.

As a result of the collapse of Caltrav and Laker and other similar incidents in the past, the ministry is now looking to update, improve and revise existing travel legislation. To that end we are meeting on a regular basis with representatives from the travel industry, who have distinguished themselves with an unparalleled level of co-operation.

Among other proposals under consideration is a suggestion to increase industry contributions to the fund. This fund was established in 1975 in an effort to provide some measure of protection to the consumer in the event of the demise of a travel company. It paid out some \$1.2 million last year, bringing the total paid out since the fund's inception in 1975 to more than \$2.5 million. We are pioneers in this field, and Ontario remains one of only three provinces with such legislation in place. Further improvements are under consideration for presentation to the Legislature.

Due in part to the large success of the travel fund, the ministry is currently implementing a similar fund with respect to Ontario automobile dealerships. Enabling legislation was introduced in June of this year, and we expect that the new fund, to be called the motor vehicle dealers compensation fund, will soon be fully operational.

Every car dealer in Ontario will contribute \$100 seed money to this program. The Automobile Dealers Association of Ontario has thrown its full support behind the measure. As a result, the consumer will receive greater protection against the problem of undelivered cars when a dealer goes out of business. In addition, the fund

will further open the lines of communication between government and that industry.

A similar philosophy of providing better consumer protection with less intervention is at work in the motor vehicle accident claims fund. We had an example earlier this year, one of three in the past two years, when Pitts Insurance Co. was liquidated and many policyholders found themselves without the coverage for which they had paid.

Legislation has already been given first reading which, upon the recommendation of the Lieutenant Governor in Council, will extend the protection provided by the motor vehicle accident claims fund for individuals who bought their coverage from Pitts or any other insurance company that may become insolvent and is so designated by the Lieutenant Governor in Council.

**11:30 a.m.**

To the extent of its normal limits, the fund will be able to step in to assist in meeting the liability of those whose automobile insurance policies with insolvent companies are no longer adequate. By the same token, it will also help other drivers involved in accidents with drivers insured by these designated insurers. Amendments to the act will also provide that the driver's licence held by anyone left uninsured by the bankruptcy will not be suspended and that such a defendant in an accident will not be required to reimburse the fund.

Perhaps the most controversial consumer protection program of the ministry is run by the Residential Tenancy Commission. The question of rent and rent review has been and continues to be one of the most contentious social issues facing society and facing the government. The arguments from all sides are played out on an almost daily basis in the media. Please be assured that both the Premier (Mr. Davis) and I are committed to an ongoing program of rent review, one that is constantly under review to ensure that fairness is maintained for both sides.

I am, of course, concerned as well about the supply of rental units in some areas and look for the day when the private sector responds to the very clear demand in many municipalities for more units. This government understands that need and it is our belief that that is why the rent review process does not exist on units built after 1976. For without that stimulus to respond to market demands, the possibility of increased rental construction in the private sector is gloomy, to say the least.



I think it is also important to recognize that most landlord and tenant relationships are reasonable and most rental increases do not exceed the six per cent guideline. In fact, in the most recent report I have seen, some 83 per cent of all rental units covered by the act were not brought before the commission for review. In other words, as I have already said, the vast majority of tenants living in units covered by the legislation experienced rent increases of six per cent or less, a fact often overlooked by both critics and by the media.

Meanwhile, the Residential Tenancy Commission has handled an enormous work load this past year, up some 200 per cent over the 1980-81 fiscal year. More than 3,300 rent review hearings were held, covering some 106,000 rental units. More than three quarters or, more precisely, 786 out of 1,011 tenant applications for a rent rebate were settled through mediation by the commission without the need for a hearing. Overall, 74 per cent of such applications resulted in the granting of rebates. That minority of landlords going to rent review requested an average increase of some 19.3 per cent and were granted an average increase of some 14.7 per cent for each rental unit.

We are studying ways to speed up the process of review and methods to ensure that clear abuses of the system are not allowed. We want and we will achieve a continuing approach that is equitable.

Another consumer protection program in which we are involved is the HUDAC new home warranty program. Under this program more than \$11 million has been paid out in direct claims both for repairs and for deposits returned during the past four years. This figure does not include the value of work done by builders on their own as a result of the warranty program's intervention.

Some 15,000 families with housing problems have been assisted by the program and a further 15,476 families have been helped by the program through conciliation efforts that have in most cases brought about remedial work to the house in question. Over the past year more than 26,000 new homes were enrolled, bringing the total number enrolled since the program's inception to 210,000.

Ontario's home warranty program is the second largest in the world. Only the United Kingdom's is larger.

Access problems for the disabled is another matter that has been of considerable concern to the ministry and to me. Access to residences

and places of work is covered by the building code, a code which comes under the jurisdiction of this ministry.

Trying to deal with challenge of access is a most difficult and complex task. The building code was originally designed to establish minimum standards for new construction in Ontario. Existing structures become affected only when significant alterations are made. It would be extremely costly and impractical to require that all existing buildings in the province be fully accessible to all disabled persons.

What we can accomplish, however, is to ensure that new construction and major renovations undertaken in Ontario have appropriate provisions for our handicapped residents. To that end, we are now inviting representatives from a wide variety of organizations for the handicapped, from the building industry and from hotel and restaurant associations to help us determine the nature and priority of further amendments to the building code. It is a personal priority that certain basic decisions regarding both accessibility and life safety for physically disabled people be made as quickly as possible. Solutions can be found and, with the co-operation of all involved, we will find them.

My ministry is also deeply involved in assuring the safe conversion of highway vehicles from gasoline to propane or to compressed natural gas. This is a rapidly developing area of interest for personal use and particularly for business fleets eager to take advantage of the Ontario government's Drive Propane campaign. There are already some 1,000 stations licensed to refuel propane-equipped cars and our fuel safety branch is currently receiving 50 new licence applications a month.

In order to maintain high standards of safety in this rapidly expanding field, the ministry requires the registration of all propane filling stations and establishments carrying out propane conversions. In addition, no one can work on these conversions or refuel propane-powered vehicles without first undergoing a written examination and subsequent certification. The ministry is currently studying the manufacturing and equipment standards in this area to ensure that safety levels are equal to those of more traditional methods. Energy conservation and safe operation can go hand in hand.

Another area in which society has demonstrated changed activities is in resort time sharing. There are many in Ontario who are participating in this and in other types of prepaid services. Unfortunately, not all prepaid

services provide guarantees that the original seller of those services will perform as promised. One form of time sharing, in which the purchaser actually takes title on the basis of a certain number of weeks per year, is already handled by existing real estate legislation and I would suggest it is now part of our real estate world.

The problems arise with other versions of the basic arrangement in which the purchaser does not take title to the property but instead becomes a so-called club member. If the resort goes bankrupt or the mortgagee forecloses, the buyer has nothing to show for his expenditure but a worthless piece of paper.

These situations are further complicated because most of the resorts are outside Ontario and therefore beyond our jurisdiction. It becomes almost impossible for Ontario residents to keep a constant eye on their investments when they are situated thousands of miles away. Legal action is equally difficult.

We are currently looking into this potential problem area. Existing legislation is being reviewed and proposals are being prepared. In the meantime our communications services branch is carrying a message of caution to Ontario consumers.

A similar study on franchising is under way. There have been situations recently in which nonexistent franchises were sold to unsuspecting buyers. There is a number of ways Ontario could proceed in order to protect more adequately franchise buyers. Discussions are already under way and my officials are actively investigating the methods used in other jurisdictions to determine what type of action is required in Ontario.

It is easy to see how much of our creative energy in all areas of government, but especially at the Ministry of Consumer and Commercial Relations, is spent in trying to anticipate and to keep up with developments in technology and business. One of the most graphic examples of this is Canada's very own Telidon. This new medium is now undergoing extensive field testing and when Telidon is fully operational it may bring about enormous changes in the way Canadians do business and in the way they spend their leisure time.

**11:40 a.m.**

As these units, or systems like them, are installed in homes or retail businesses, they will become one of the most controversial issues facing technology and business. One of the possible uses of these and other electronic

hardware systems is electronic funds transfer. In certain US jurisdictions, electronic funds transfer is already in place and we must actively consider our position prior to its arrival in Ontario.

Representatives of the ministry have been meeting with members of the financial community to share information on the potential benefits and hazards of this new technology. Major areas of concern include consumers' rights to privacy of financial records, their freedom of choice on making payment and their rights to full disclosure to ensure that computer errors can be checked.

We are standing on the threshold of an electronic and financial revolution that could prove to be as radical as when civilized societies first created paper money in place of precious metals. Many experts are predicting our entire concept of money will be changed from paper bills to electronic signals recorded on magnetic tape. I am told we could be seeing the first use of electronic point of sale transactions within two years. It will be an exciting and challenging time to be involved in consumer protection.

Before turning to the corporate side, to expand on some of my views expressed earlier, I must touch on one area that affects both consumers and businesses alike, that of pensions. One of the most important accomplishments this year at the ministry's Pension Commission of Ontario will, it is hoped, be the amendment of the Pension Benefits Act to clarify and reinforce the pension benefits guarantee fund, an especially important piece of legislation that has since 1980 provided Ontario workers with an extra measure of protection in the face of possible plant closures and business failures.

I would remind you that the farsighted disclosure requirements of the Pension Benefits Act came into effect this year, bolstering public confidence in the solvency of private pensions in Ontario and encouraging an awareness of their importance among member employees.

Mr. Chairman, I have been dealing mainly with the consumer side of my ministry until now. On the corporate side, I feel the ideal situation for government, business and the consumer is surely one in which industry is given the responsibility and the trust to regulate itself wisely. Clearly, that will not always be possible, but where it is the government stands ready to eliminate any unnecessary rules that serve to do nothing more than hinder Ontario businesses.

The recent changes I mentioned earlier, introduced by the companies division of the ministry in regard to incorporation procedure, are an excellent example of this. By decentralizing over-the-counter incorporations to land registry offices in London, Thunder Bay and Sudbury we have been able to provide direct service to locations outside Metro Toronto. This service will soon expand to include our offices in Ottawa and in Windsor.

That same division has completed the privatization of the printing and distribution of 19 different forms that are required under the Business Corporations Act. This has resulted in significant savings in the costs of printing, postage and labour for all businesses incorporating or amalgamating.

Another initiative being considered by the Ontario Securities Commission is the introduction of procedures to improve junior stock listings. That proposal, which was developed by the market access committee of the Toronto Stock Exchange, will allow for the formation of a capital market for fledgling resource and industrial enterprises that do not meet the rigid requirements of the Toronto Stock Exchange for major securities.

We believe the securities industry in Ontario has been unable to assist these developing companies properly because of the regulatory and financial barriers to public equity financing of junior companies. Many such companies have gone to other markets in Canada to seek that needed funding. As a result, the Toronto Stock Exchange has added 158 companies to its listing, compared to 622 on the Vancouver Stock Exchange. Although both figures combined add up to less than five per cent of the 17,000 Canadian businesses with annual sales of between \$2 million and \$20 million, they do nevertheless represent a significant segment of the source of tomorrow's new senior listings.

The three major obstacles to widening the market have been identified as, first, listing standards, second, transaction costs and third, market undervaluation. Regulatory changes have been proposed and a public hearing will soon be held by the Ontario Securities Commission on this issue.

Ontario's many financial institutions have also found themselves having to adapt to new conditions brought about mainly as a result of rapidly changing interest rates. Indeed, the economic climate has effectively changed the character of many of the mechanisms with which we have become so familiar in the past.

The five-year mortgage for example is now virtually extinct. In times of high interest rates, consumers are looking for competitive rates of return on money deposited with such institutions. For their part, these institutions, which operate on the spread between interest paid and interest earned, have had to lend funds at very high rates.

The recent high short-term yields have had adverse effects on long-term bond portfolios. Many financial institutions prefer to maintain a liquid position and have found the value of their bond portfolios severely depressed. As interest rates have fallen in recent weeks, this process has been reversing itself.

In response to the changing needs of Ontario's financial community, my ministry's financial institutions branch is developing the following:

First, we are looking at a revised Loan and Trust Corporations Act that will give trust companies a broader investment scope. This will provide for the transfer of authorized investment provisions to the regulations so as to permit a more rapid response to the changes in market practices and needs.

Second, we are developing and will introduce revisions to the Insurance Act of Ontario that will place provincial insurance companies in the same competitive position enjoyed by federally incorporated firms with respect to reserve and investment provisions. Essentially, we want to allow them greater flexibility, something badly needed in today's tough economic circumstances.

Third, we intend to propose changes that will provide for improved operation of credit unions. In addition, we will be meeting with the Ontario Share and Deposit Insurance Corp. to devise legislation that will enhance that agency's role in dealing with the problems it faces.

Fourth, we are also revising the statistical plan which is used by Ontario insurance companies to set Ontario automobile insurance rates. Our intention is to bring about a system in which drivers' rates are no longer set solely on the basis of age, sex and marital status, but rather on the basis of the individual's driving record.

Finally, there are those three areas of ministry activity that involve special aspects of both consumer and business interests. I am referring to the Liquor Licence Board of Ontario, the theatres branch, the Athletics Commission and the Ontario Racing Commission. The two most notable recent changes in liquor licensing regulations in this province have been the rollback of the legal opening time at licensed establish-



ments from noon to 11 a.m. on weekdays and Saturdays and the so-called beer in the ball park experiment that was started this summer.

Hours of operation are always a contentious issue and one which is continually reviewed by the LLBO to ensure they realistically reflect the wishes of the public and ongoing changes in business conditions. Many in the hospitality industry had asked for an 11 a.m. opening time and we feel this change will benefit both consumers and licensees by allowing for an additional lunch time sitting.

Beer in the ball park was an issue raised almost yearly by the media and by members of the House. Contrary to popular belief, beer and spirits have long been available, for example, at the Canadian National Exhibition stadium, although their sale was restricted to licensed restaurant premises within the complex. On July 30 the Liquor Licence Act was amended so that beer could be sold on a test basis until the end of 1983 at three of Ontario's largest professional stadiums—Lansdowne Park in Ottawa, Ivor Wynne Stadium in Hamilton and Exhibition Stadium here in Toronto.

Preliminary reports show that the experiment is working well, especially in reducing the apparent illegal consumption of hard spirits during ball games. We will continue to watch the situation closely.

**11:50 a.m.**

There is no doubt that the issue of censorship is one of the most emotional with which the ministry must deal. The Ontario board of film censors exists, not as an attempt to control private thought as some have suggested but in response to a real need seen by the public of Ontario.

Since the federal court's 1978 decision in the MacNeil case, local standards have been the criteria for public film exhibition. It goes without saying that board members are not there to promote their personal beliefs. Rather, they must exercise their view and their vote as a reflection of carefully researched and documented standards held by residents of Ontario. I am convinced that this is being conscientiously carried out.

Last year the board had contact with some 4,528 people through public meetings and personal surveys. Through these careful and cumulative soundings, the board members' active research ensured that community values are reflected as fully as possible.

Last year the board reviewed 1,773 films. Of these more than 1,700 were classified and

approved. In order to increase the diversity of community representation on the Board of Censors and to formalize a mechanism for appealing board decisions, we hope to introduce legislation to amend the Theatres Act. The board would be increased in size, a move that would allow the board to maintain close contact with community standards and to be more representative of Ontario's diverse communities. An effective appeal procedure has been in use at the board for the past year, but the amended act would formalize that process.

The Ontario Racing Commission regulates an industry that accounts for the expenditure of more than \$1 billion annually in this province. The commission recently commissioned an exhaustive study of the racing industry. One of the major areas of the study is the ramifications of the announcement by the federal Minister of Agriculture regarding telephone account betting and intertrack wagering.

I have stated before that I am not opposed to either proposal. However, I feel there must be further consultation and fact gathering before policies can be finalized. With the results of this study we will be in a better position to assess the policy changes that may be necessary to keep the Ontario racing industry healthy and productive.

The Ontario Athletics Commission continues to spend much of its energies in an attempt to make boxing a safer sport. To that end, former world-class boxer Clyde Gray was appointed supervisor of boxing in 1980. In 1981 he was promoted to athletics commissioner. Since his appointment the commission has introduced a 60-day suspension for any boxer who has been knocked unconscious. In addition, ring physicians have been given the power to stop a fight at any time that they feel such action is warranted.

The commission has also introduced a passport licensing system to keep track of each boxer's fight history and medical status. As well, a series of workshops has been organized for ringside doctors.

I began these remarks by saying that this ministry was one of the most complex and offered some of the greatest challenges of any provincial ministry. I'd like to add a further thought in conclusion. I think it also offers the greatest example of the capacity for consensus in today's fractured world.

During the last few years, we have seen how a society functions when times are good and how it functions when times are not so good. When growth is never ending and the bubble looks as if

it will never burst, most people can be swept along in the wake of other successes, but not all. Then when times turn tough, there are more who need help and whose money must go that much further or be that much more carefully watched.

If one of the government's roles is to bring stability through these economic cycles, and I believe it is, another role is to ensure that society operates in a manner that is equal and fair for all, whatever the economic conditions. Such a goal can only be achieved through consensus and a caring for all sectors of society. This is only possible when understanding and cooperation are the watchwords of action.

By definition in this ministry we walk in two worlds, the consumers' and the corporations'. I would like to think we do that while bearing in mind the very real concerns of both and that we can contribute in some small way to the consensus that society so badly needs. I know I speak for everyone in the ministry when I say that remains and is our constant goal.

**Mr. Chairman:** Thank you very much, Mr. Minister.

**Mr. Breithaupt:** After remarks like that I don't see how you can have any criticism.

**Hon. Mr. Elgie:** Oh, he will find them.

**Mr. Breithaupt:** Following those few brief remarks of the minister I am certainly pleased to lead off on behalf of the opposition with respect to our views as to some of the activities and the policies of the Ministry of Consumer and Commercial Relations.

As members may be aware, I served as our critic for this ministry over three years and am now called back for an encore, due unfortunately to the continuing indisposition of my colleague, the member for Essex South (Mr. Mancini). He has not been able, because of illness, to take on the full responsibilities of his critic's role in this ministry over these last several months, so I have attempted to pinch hit, not only in legislation, but also here today.

I am particularly pleased with the opportunity to return to the estimates for this ministry because the 20 hours which we are going to spend in dealing with these estimates will be the first real occasion to talk with the minister as to his philosophy for the operation of the Ministry of Consumer and Commercial Relations.

While there has been a number of questions in the Legislature dealing with the great variety of aspects for which he is responsible, this is really the first comprehensive and deliberate

manner in which we are able to approach the ministry and look at what it covers.

The minister is still relatively new to the portfolio, but I must say that he comes to it both highly and widely regarded as much more progressive than conservative—

**Hon. Mr. Elgie:** Don't they go together?

**Mr. Breithaupt:** —much more inclined to compassion than to derision, and a man of, one might say, almost liberal inclination in many of his actions.

**Hon. Mr. Elgie:** Not those 19th century liberals, I'll tell you.

**Mr. Breithaupt:** Based on the difficult role you had while Minister of Labour in ushering in the changes to our new Human Rights Code, I think the regard that many of us have for you is well deserved. I certainly share that regard for the minister and his abilities, so long as he promises not to use that comment in his next election campaign brochure.

**Hon. Mr. Elgie:** Write that down.

**Mr. Breithaupt:** In any event, the minister comes to his portfolio in a period of quickly changing economic developments. In the notes for his remarks which he provided to us he comments that the ministry is one of the most complex and offers some of the greatest challenges of any of the provincial ministries, particularly because of the variety of areas in which it is concerned.

I don't know whether it does give the greatest example of capacity for consensus in today's fractured world or not, but it's fair to say that, particularly in economically troubled times, which is a euphemism for the recession or depression aspects that have faced us, the needs of the consumer and also of commercial organizations are peculiarly heightened and sharpened.

## 12 noon

We have to ask ourselves what the appropriate governmental response is to these aggravated needs, and in many cases, whether the needs themselves are even compatible. The answers are a function, not only of the philosophy of the government and of the Legislature, but particularly a function of how the minister looks at his own responsibilities. I avoid the term "ideology" because I think it connotes an intellectual rigidity and inflexibility which is not suited to the times in which we are living. That is why, in referring to the minister's advent to this ministry, I anticipate hearing more of his philosophy towards the work before him.

There is no doubt that the commitments, involvement and work of this ministry are very important. When I was first appointed as critic for this ministry back in 1978, I added up the numbers of statutes involved and found—as was commented on earlier by the minister—there is a responsibility for the administration of 72 statutes. That comprises 13 per cent of all the laws that we continually keep passing within this province.

As a result, the ministry's administrative and regulatory responsibilities of necessity span a very diverse range of activities. Because of this broad and complex weave of responsibility in the commercial and consumer areas, we get a resulting tapestry which directly or indirectly covers most aspects of the lives of our citizens and of business activity within the province.

The mandate of the ministry is twofold. First, it is that of consumer protection; second, it is that of the regulation of business activity. In view of the enormous statutory network of the ministry, and in view of the difficult economic climate, it is probably appropriate to ask whether the two aspects of the mandate are really compatible. Perhaps they are mutually exclusive. The interests of the commercial world are often at odds with the interests of the consumer, especially when commerce struggles to reduce the costs of making profits and consumers struggle merely to remain consumers.

Last year my colleague Mr. Bradley raised this issue when he said, "It is very difficult for a minister to be both the minister of consumer relations and of commercial relations." In other words, it is difficult to be both the minister of deregulation and the minister of regulation at the same time.

It is interesting to note the minister's opening comments and the philosophy he has set out briefly in the message that begins his annual report for the year ending March 31, 1982. The minister in his opening paragraph says, "I see the challenge that faces this ministry as one of maintaining the critical balance between the interests of consumers and business in the increasingly complex marketplace."

The very fact the minister leads off the annual report in those terms of maintaining a balance, acknowledges on his part, the conflicting interests which are at play here. There is a conflict between the inherent strivings of business and those of the consumer. Many of us might wish that were not so, but unfortunately that is the reality of the world in which we live.

When one adds to this inherent conflict the

fact that it occurs in a marketplace made complex by the pace of technological change, to which the minister also referred, and made somewhat more cruel by the pace of economic hardship and business failure, then the question of the duality of the ministerial mandate is not just mere idle speculation. I do not know whether it is time to sever that kind of a mandate, but perhaps the committee will discuss that kind of issue generally at some point during the 20 hours we have available for these estimates.

As I commented at the beginning of my remarks, I have spoken as critic for my party on Consumer and Commercial Relations matters over the years. It was my view then and I think it remains largely my view now, that government perceives its role as providing the wherewithal to the consumer to police the marketplace for himself.

It fulfils this role by bringing forward various consumer statutes, a number of which were referred to in the minister's opening comments. The plans and prospects for other legislation or changes in areas such as pensions and consumer reporting and freedom of information and all those other themes, are the kinds of things we can logically expect to see as the session continues and as legislation is brought forward to fill both perceived immediate needs and expected needs in the future.

The consumer, therefore, is provided with information, not only about the marketplace in which he or she lives, but also about some of the remedies available to him or to her in the enforcement of specific rights. There is a theoretical purity in such a view of this kind of role and it does get somewhat spoiled, on occasion, by the practical breakdown of that theory in the somewhat cold context of a modern and economically difficult marketplace.

While I was critic I pointed out three impediments to the proper functioning of the theory of the marketplace. I will not elaborate upon them for by now the record is rather full of in-depth elaborations on those themes. I thought I would merely repeat them for the benefit of the minister, who may be interested in hearing them, not having likely read the committee Hansard of several years ago.

The first impediment is to recognize the realities of the marketplace, the second is to look at the difficulties inherent in a public information distribution process, and the third is to consider the barriers which prevent consumers from exercising many of their legal



rights. Each of these problems calls for a positive government response. This is so not only because the consumer cannot always protect his or her own interests, but because the natures of the marketplace and of our legal process are such that it is not often worth while to take action to assert a consumer right.

As I said earlier, I think these themes are no less valid today in more difficult economic times than they were several years ago. The minister, in his closing comments, refers as well to the changes in society functions and the lack of pressures in some of the consumer themes when times are good, compared to when times are not so good.

As he says, when growth is never-ending and the bubble looks as though it will never burst, most people can be swept along in the wake of others' successes. A lot of us over these last several years in Ontario are finding a variety of bubbles, upon which we counted, bursting.

It is true with unemployment pressures and it is true with pressures on corporations that are not making profits and do not have capital to invest either in new plant or facilities or in the creation of new jobs. It is also true when it comes to consumers, who are perhaps now more concerned about things like warranties than they were a few years ago. When they look at the circumstances as to the purchase of items there is the expectation they will last a little longer than was expected a few years ago. We find that other aspects of consumer protection and other themes come to the fore than was the case when the throwaway society in which we lived was going along at full tilt.

We must move forward in areas such as data processing and electronic procedures that were referred to in the opening comments. We are all going to be faced with challenges in the next several years as we balance the commercial requirements with our traditional views of privacy and the right of persons to redress errors, not only in their records, but also to correct situations that may have developed over their whole range of commercial interests.

**12:10 p.m.**

So we almost come up to the requirement within this ministry to try to build a bond of partnership between both the commercial interest and the consumer in very difficult times. If this ministry maintains its mandate, attempts to strike that balance that the minister referred to in the annual report and that he has discussed this morning, then perhaps we are looking at

some new definition for the common good in which we are all interested.

Certainly, a variety of the interests with which the minister has to deal are not necessarily adverse, inasmuch as we are all sort of bludgeoned by the economic hammer at times, of course we have to design areas of mutual protection.

Against that kind of background, I would raise with the minister a variety of subjects this morning in the general opening comments, because the themes of interest come and go in this ministry, depending upon the times and the issues of the day. I recall, looking back to the formation of the select committee on company law and its requirements to review the insurance industry within Ontario, that one of the reasons in 1975 that that committee achieved its mandate and then went on to deal with a variety of themes under insurance law was because of the particular concern at the time of the cost of automobile insurance. That was then the issue of concern to many people within Ontario. The availability of taxi insurance coverages or dump truck coverages were the kinds of things that were of particular interest at that time.

When I look back in this ministry three or four years ago, we saw concerns with respect to the Ontario Racing Commission and then the year following we looked at particularly in these estimates the whole matter of film censorship, the Tin Drum controversy, the areas of concern that had prominence in that time.

For this year, clearly the area which is of particular concern in this ministry is the policy of the government and the activities with respect to rent review and the operations of the Residential Tenancy Commission. I am certainly pleased that the committee has decided to separate the votes of the ministry and plans to deal with a variety of these topics in a clear sequence which will not only allow the staff of the ministry to know when they might be called upon to be here, but will also allow members of the Legislature, not necessarily on this committee, to attend on certain days when the various topics of interest to them may be particularly discussed.

It is quite clear, as I have said, that the most important matter this committee may wish to look at during these estimates is the operation of the Residential Tenancy Commission and, indeed, the entire issue of the provision of affordable accommodation within Ontario.

Since the committee is not going to be meeting next Wednesday, the first opportunity

to deal with what is now vote 1508 on the Residential Tenancy Commission will be on Wednesday, November 17. Of course, it would have been preferable to have the opportunity to deal with that subject next week, but that is not going to be possible and as a result, in effect, the most particular transaction that we will be looking at, the matter of the Greymac purchase from Cadillac, will have closed the day before.

To a degree then we will looking at a subject somewhat in arrears, but I don't think that will remove the urgency of the discussion or the interest which members will have in that subject, dealing with the purchase of some 11,000 apartment units by one company from another and where the sum of that total purchase represents perhaps five per cent of the inventory of apartment units in Metropolitan Toronto. It is, of course, going to be an issue of particularly great interest to the members from Metropolitan Toronto, whatever their party label may be.

An exchange of ownership of so large a proportion of the city of Toronto or Metropolitan Toronto's rental accommodation will inevitably have a ripple effect through the apartment community. We know that the vacancy rate for apartment units is some four tenths of one per cent and as a result there is great pressure to encourage the prospect of new buildings and also to ensure that rents are as fair as they can be within this province.

As a result of the pass-through regulations of the Landlord and Tenant Act rents can be adjusted. We have seen a variety of reported examples of very large changes in rent, not only because of pass-through procedures but often as a result of refinancing.

I think the minister does properly underline the fact that a very high percentage of rent changes across the province are modest from year to year, that many units in a variety of communities have had fair increases that have often been somewhat less than that six per cent figure we fought an election over a few years ago.

We have to stress the fact that many landlords are careful in their charges and are as fair as they possibly can be. It is, of course, only the very large increases that happen to get the publicity and those are ones which I think are worthy of at least some observation as they come before a committee such as this when the opportunity is there to discuss vote 1508 next week.

That is the theme, and probably the most

important theme, the committee will look at as it reviews the estimates of this ministry. I believe that the day committed to looking at the Residential Tenancy Commission and these other themes will be a most worthwhile one.

Last night on the late Global national news a story was broadcast about this impending deal. The reporter concluded with the following remark, "The Cadillac-Greymac deal is just the tip of the iceberg waiting to hit the rent control ship." Certainly, the image was rather a deliberate one as conjured up by the reporter. It was a rather bleak one and, indeed, perhaps it was, as it was meant to be, a very serious warning as to how this whole theme is going to be impacted upon by the Cadillac-Greymac situation.

Certainly, the implications for the future of the rental market and for the integrity of the rent control system in this province are going to be somewhat ominous as a result of a transaction of this size. Merely by the legal and proper resort to the existing regulations the new landlords may well, through this kind of transaction, establish a precedent which could render the rent control program and system in Ontario rather a sham in that it can be avoided by major landlords.

Of course, a number of these themes has been addressed and this matter has come up, not only in the Legislature as a result of questions, but during an emergency debate and in effect through a request made initially in committee for a separate hearing on that subject. The end result of all this has been that this committee is going to be the place where this theme is going to be discussed as part of the estimates time available.

I am sure we may well have to plan for some other location than this room if the 10,000 tenants, or at least a goodly proportion of those interested in this subject, choose to attend the hearings of this committee on November 17.

**12:20 p.m.**

Another theme which comes before us and which was referred to by the minister deals with amendments to the Ontario Building Code. Our minister, peculiarly, knows the particular impact of the Ontario Human Rights Code on building access within this province. As the minister responsible at the time he has not only the immediate knowledge on the subject but has referred to it in his opening remarks as the province does attempt to have access to public buildings dealt with as an ongoing and continuing improvement and as we look at the whole situation with respect to new construction.

Certainly, all of us would wish to integrate as many persons as possible who suffer from a variety of disabilities into the active life of the community. It was clear in the statement made by the Minister of Community and Social Services (Mr. Drea) this past week that with the plans to close a variety of residential buildings that had been the large, holding locations for many persons who could return to the community, that it is the philosophy of this government that that kind of approach is the one that we should follow.

Of course, we in the opposition entirely agree, recognizing that the expense to the government and the commitment of the government to deal with people in those new settings will have to be carefully planned and will have to be fully in place so we are not exchanging one unfortunate holding situation for those persons with inadequate facilities otherwise.

It is the same approach that has to be taken with respect to Bill 82 in trying to provide a variety of educational facilities for those who have a variety of learning disabilities. We cannot simply say we are going to pass legislation and presume that as a result the problem is resolved. The resolution of problems like that causes great expense and has to be phased in in a proper and appropriate way. We are now seeing how that is going to be accommodated in the educational system and the ongoing comments made with respect to the requirement for the provision of extra funds for specialization of teaching jobs and all these other sorts of things are currently of interest.

As we look not only to the circumstances with respect to those under Community and Social Services but also under Education, we now turn our minds to the building code and its changes, which are also going to be of interest to people with a variety of disabilities within the province. It is a theme which I think is important in this ministry because, as I have said, we all wish to integrate as many people as possible in the ongoing normal lifestyle and activities of the rest of us in Ontario.

The measure will complement very much the changes to the Human Rights Code and I am sure that this committee will wish to deal with this topic at somewhat greater length.

A third area is that of plain-language legislation. During the hearings of the select committee on company law we looked in some detail at the variety of proposals with respect to plain-language policies, particularly in the area

of automobile and other general insurance themes. This has now been followed by interest among some of the life insurance companies in dealing as well with an attempt to make more simple and direct the ordinarily involved language used in insurance policies.

Consumer advocate groups and legal scholars as well have long sought to introduce various forms of plain-language legislation. It is a difficult balance to strike because many of the phrases which have been used in ordinary insurance policies, to take an example, have now been particularly decided upon and explained as a result of decisions of the court and interpretations as to the meaning of those words.

Where one suddenly changes wording in any kind of contract or policy situation then, interpretations may have to occur. The phrases, while they might be somewhat obscure to the average citizen, at least have a particular meaning within their circumstance. We run some risk of changing wording willy-nilly as it may cause additional difficulty, as that wording in turn requires some translation and interpretation.

There is a need for encouragement by this ministry of plain-language legislation. It may not be necessary for a comprehensive review of every statute which we have written, but at least with respect to consumer statutes we would do well to attempt to encourage the use of more plain language.

There are jurisdictions within the United States that have given some leadership in these matters. We can gain from some of the experiences which they have had.

My colleague, the member for Essex South, has introduced as a private bill an act that would require consumer contracts to be readable and understandable. I hope that if the opportunity comes for him to debate that bill during a private members' time there will be general support for that theme within the province.

The bill provides the consumer with a right to cancel a contract and be compensated for damages if there are contraventions. The bill encourages proper and scrupulous activities by persons who are in business to ensure that violations will not occur. It is hoped the bill would protect the consumer. I know that this theme of consumer protection is of interest and perhaps is something whose time has come.

Within Ontario, we have to look at the opportunity for somewhat broader omnibus consumer protection legislation. The consumer advocacy groups and legal scholars who call for plain language laws have also urged the central-



ization and collation into one omnibus law various scattered laws which protect consumers.

Certain balancing procedures have to be considered here. I realize that a ministry that has some 72 pieces of legislation might prefer it if there was only one. It might simplify everything, but that act might be so long, so involved and so detailed that it would be more of a burden than the 72 acts that now apply. There would be positive developments in that both consumers and businessmen could look at legislation and expect to find as many of their obligations within one statute as is possible.

The minister has referred to the theme of censorship. That whole theme of film censorship was mentioned by me as something of great interest to the committee when we were looking at the film *The Tin Drum* and the operations of the board which Mr. Don Sims was conducting as chairman of the Ontario theatres branch at the time. I am pleased to see the minister underline the view that board members are not there to promote their own personal beliefs. It is difficult to talk about community standards when that branch did not in those years have written down at any particular location just what the standards were thought to be.

**12:30 p.m.**

While many of us might view the whole matter of film censorship as something which is less preferable than classification of films, even the classification must depend on proper and intelligent standards, and some practical knowledge as to what those community standards really are.

I know that this government is particularly guided by public opinion polls. I was interested to look at the polls which dealt with film censorship and their involvement in policy decisions as they were given to the Legislature several years ago. I am pleased to see, from the figures the minister has provided to us, there have been a number of public meetings and personal surveys to strengthen presumptions that members of the board have as to what the community standards are.

I hope they are, as the minister has said, careful and cumulative soundings. It has been my view that we would do better to have classification rather than censorship as it now is.

The minister does rightly note that 1,770 of a total of 1,773 films were quickly classified and approved. It is always the exceptional film that causes controversy and that is a difficult area in which to deal. There are some themes under

film censorship which I still find to be of concern.

The most important reason to me as to why there should be anything called censorship in this province is the subject of child pornography. For that reason alone, I would be prepared to accept the Ontario theatres branch and its continuing activities.

It's a theme which distresses all of us. Having two daughters who are aged six and four, and hearing of children of like age who have been abused and emotionally scarred for life by the kinds of involvement that one learns about through the comments made in the media by police authorities, the issue is to me extremely important. I think it is the kind of thing which says more about the society in which we live and the standards which we as legislators should purvey than many of the other things we do from day to day. The matter of child pornography is a most vexed and difficult one.

Lifestyle advertising, advocacy advertising and the shaping of attitudes, particularly among the youth to whom those matters are directed at great cost, are the kinds of influences which seem to have a far greater and more pervasive influence on our youth than any of the speeches we make in the Legislature or many of the things which our traditional community leaders do from day to day.

Matters of subliminal advertising, matters of lifestyle, are things that are difficult to come to grips with, particularly where through television, they have an impact which is beyond our provincial control, as a result of the operations of the Canadian Radio-television and Telecommunications Commission and federal responsibilities in that regard.

That is as true in matters of violence as well as it is in matters of pornography and other lifestyles, but there is a relation between advertising and censorship and there certainly is an impact of those kinds of issues. We in Ontario, with the responsibilities we have, have to address seriously that kind of an issue because of the impact it is having on the younger people.

Another area of interest to me is the matter of interest rates and the particular involvement with respect to the use of credit cards within the province.

**Mr. Swart:** I do not want to interrupt and I do not want to limit what the member for Kitchener is going to say, but I am wondering, if he has quite a bit more to do yet, if we might take our lunch break and then come back. Or would he prefer to carry on?

**Mr. Breithaupt:** It depends on whenever the chairman thought to adjourn.

**Mr. Chairman:** My thoughts were to run until about a quarter to one, which gives us two hours this morning and three this afternoon for Mr. Swart's remarks and vote 1801.

**Mr. Breithaupt:** I would expect that I can probably complete my remarks by a quarter to one.

**Mr. Swart:** I am not suggesting the member should do that. That is not the problem. I just wondered—

**Mr. Breithaupt:** There are a number of other themes I did want to discuss. They may take a little longer than I had thought initially, but I am quite content if we go to a quarter to one.

**Mr. Chairman:** Do not worry. If you can get yourself to a point at a quarter to one that you can cut off and then come back afresh—

**Mr. Breithaupt:** I could do that right now.

**Mr. Chairman:** It just divides our time into two hours this morning and three hours this afternoon.

**Mr. Breithaupt:** That is fine.

**Mr. Chairman:** It is easier for calculating that way. I am not very clever.

**Mr. Breithaupt:** We have a clerk who will worry about the actual minute by minute approach.

Under the theme of credit cards and interest rates, one area that does concern me—and I think we have a responsibility shared in this matter—is the cost of credit which, used either by department stores or gasoline outlets most particularly, remains very high.

I recognize one answer to the credit card charges is simply not to use that kind of a facility, but it also seems to me that, as people are encouraged within the province to deal on a credit basis through a variety of plans and loans and other marketing and merchandising processes, we have to be mindful of the charges for credit and ensure those charges are reasonable and appropriate.

We also have to look at the whole topic of credit charges; the handling rates which gasoline companies, for example, charge on accounts which become a cost to the particular dealer.

I would like to refer briefly to the new home warranty plan which the minister also discussed in his opening comments. I recognize the Housing and Urban Development Association of Canada has now been in place for several years and, as the minister says, more than \$11 million

has been paid out in direct claims during the last four years.

He also comments this warranty program is the second largest in the world. Knowing this government, with Ontario always leading the way, we will probably get to the stage of passing the United Kingdom at some point, but for the time being it is a program which has developed in this province and I think has been well received by the people who have been involved in the purchase of new homes.

There are some perennial issues in this area. Of particular importance is the apparently ultra vires situation of certain regulations which exempt the compensation fund from liability in cases of unfinished work. If you look at clause 14(1)(a) of the act dealing in this area it promises compensation in respect of "the vendor's failure to perform the contract," but we have seen problems in this area under the home warranty program.

It would appear that the correction of deficiencies is not always readily attended to under the statute, particularly on the completion of contracts where people had paid and accepted delivery, or accepted title to on the promise of future delivery of a variety of component parts. There is a certain inconsistency there which has to be resolved, and perhaps we can look at that as we discuss the particular areas under the home warranty plan.

**12:40 p.m.**

With respect to business practice violations, we have seen a number of practices which have been brought to the attention of the public through the media. The minister commented on a variety of violations of standards; he told us about the diamond appraisal situation in his opening remarks and said, as I recall, that the media, at least, had been informed and warned as to a variety of these practices.

I don't know if that is good enough or not. I hope the ministry will continue to monitor that particular area to see if other practices are continuing and if proper and intelligent appraisals are being given in those circumstances, or whether there is going to be an ongoing problem.

The matter of certain TV repair practices and the matter of the supposed lifetime membership in health clubs are two further areas under the business practice violation theme. We have seen a variety of these health clubs close down. If you look at the impressive article in the Toronto Star on October 8, with a rather awkward picture of the minister who, in that stance, looks more like the member for York

North (Mr. Hodgson) than himself, I think there may well have to be some review of the rather, as he says, loosely worded memberships for fitness clubs and these other sorts of locations.

Again, it is an area which is somewhat new within our commercial relationship and is one that a number of our own members should, on occasion, be involved with personally. It is one that is worthy of some monitoring, at least, to protect people who have paid money for expected activities or results or coverages or benefits in the future.

The minister referred to the matter of franchise laws and I would like to develop this whole matter of franchise regulation in some depth. The comments you made in your opening remarks have given us to realize that you are looking at this in a serious way. We are almost in a pyramid kind of stage as we look back on that legislation and those themes that were before us a couple of years ago. We now see the variety of franchises which are apparently available and the large amount of money which is expected to be paid up front, or in some fee or some other obligation, for an unknown product.

It is a simple matter to go through many of our middle-sized communities and find, whether it was the Red Barn or H. Salt Fish and Chips, or any of these other particular business practices, particularly in the fast food circumstances several years ago, now closed and used for other purposes. These chains seem to have come and gone and money, no doubt, changed hands.

Protection might have to be considered because of the commitments people enter into.

It is a contract. Persons need not enter these programs, but they do, expecting to be successful. We have to ensure that the contracts, whatever their particular terms, are fair, are meaningful, and can be enforced, either through the ordinary court circumstance or—in the matter of travel, as you have suggested—through programs which have quickly come into play to deal with circumstances that would otherwise have been most unfortunate to many thousands of people.

The franchise area is not the same size or does not involve the same number of people as the travel circumstances you referred to in your remarks, but to a degree there is a parallel and protection has to be available. If we allow persons to go into these kinds of programs, there is going to be an unfair cost to the consumer.

**Mr. Chairman:** It is now a quarter to one.

**Mr. Breithaupt:** Yes, I would be content, Mr. Chairman. My remarks will not be lengthy. That deals with half of the points I had wanted to raise and an overview of some of the activities of the ministry.

**Mr. Chairman:** We will recess now until two o'clock and, if you could get back on time, we can get things wrapped up this afternoon at five o'clock.

The committee recessed at 12:46 p.m.

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Ontario

No. G-2

# Legislature of Ontario Debates

## Official Report (Hansard)

### Standing Committee on General Government

Estimates, Ministry of Consumer and Commercial Relations



### Second Session, Thirty-Second Parliament

Wednesday, November 3, 1982

Afternoon Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, November 3, 1982

The committee resumed at 2:10 p.m. in committee room 1.

### ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

**Mr. Chairman:** I see a quorum. We shall now proceed.

Mr. Breithaupt, I think you said before lunch you were almost halfway through your remarks.

**Mr. Breithaupt:** At least, yes. I just have a few more issues that I think are of particular interest with respect to the opening remarks. One of them is the matter of insurance premiums and the involvement of the ministry with respect to increases in costs that are otherwise occurring as insurance companies attempt to protect themselves from the uncertainties of increased settlements, the cost of crash parts and labour and other expenses with respect to the repair of automobiles.

I think it's important at this time for the ministry to have some monitoring of the increases in charges, even though in the pattern we have developed there is not a responsibility or overview in the setting of insurance premiums. While a variety of programs of insurance is reviewed and accepted by the superintendent, there is still the basic responsibility of the marketplace to deal with whether the premiums that are charged are relevant and satisfactory when people have the opportunity of shopping among a number of insurers.

I think if there are exceptional increases, in the same way that there may be exceptional increases in the rent that tenants have to pay, then there is at least some responsibility for the minister to ensure that the monitoring of those costs occurs and that they thoroughly reflect what are appropriate charges for services which we all recognize have to be provided several years from now.

The difficulty in setting insurance premiums is that one is dealing with a variety of intangible expectations. There may be no claim on that policy or, on the other hand, there may be a substantial claim. It may occur a year or a year and a half from now. Indeed, it may be settled two or three or four years from now in the

circumstances of the day. The operations of the superintendent of insurance become one of an educated guess as to the sufficiency of premiums and the availability of appropriately actuarially counted reserves to deal with possible claims under a variety of policies.

I think it does come down really in these more difficult economic times to a review and at least an awareness of changes in insurance premiums so that they are seen appropriately to reflect the expectation of increased costs and, as our select committee report noted, to ensure that the returns on investment are appropriately credited to the total costs of the policies and that investment returns based on the capital otherwise provided by the policyholder are credited to the cost of that premium as one looks at the overall expense of the particular company.

I was pleased to see the comments which the minister made in his opening remarks concerning the changes in structuring of driving insurance coverages. The minister commented that it is his intention to bring about a system in which drivers' rates are no longer set on the basis of age, sex or marital status, but on the basis of an individual driving record. This was a theme which the select committee on company law attempted to address as we looked at what were the traditional patterns of developing premium coverages and costs across the province.

It may well have been that in years gone by the fact that men drove cars and women ordinarily didn't, or that older drivers were necessarily more careful than were younger ones, were reasonable sorts of folklore patterns upon which to develop more or less acceptable statistical patterns for those times. Now it would appear that there is a much more important level of expectation as one looks at the individual driving record.

Those of us who were on the company law committee that dealt, in the second volume, with the patterns and developments of insurance premiums were aware that those traditional patterns were not necessarily the appropriate way of dealing with the construction of premium rates for the individual in this day and age.

I recognize, of course, as we did then, that the general insurance industry is reluctant to throw

away the statistical bases that have been developed so far as persons are put into the variety of cells that make up the premium structure that has occurred over the years. The industry believes that on balance there is merit in keeping that kind of a framework upon which to base premiums and that it has proved to be satisfactory.

I think the change which Mr. Drea initiated in the ministry to move to that theme of individual driving record is one which is appropriate and is one which I think can be statistically accomplished, even though it may take some time for the companies to reorganize their statistics and to provide in the green book the record of accidents and other claims and coverages which go to make up the basis upon which insurance premiums are calculated.

It was interesting last evening, as we debated a bill to deal with the changes under the motor vehicle accident claims fund, to have before us once again the example of Pitts Insurance Co. It is one which is troublesome, I'm certain, not only to the other companies in the industry but to the minister, as he attempts to review what responsibilities he has in making sure that coverages which have been contracted for are going to be appropriately provided. I think the amendment to the act that we discussed on second reading last evening does cause that bridge to occur which will deal with the problems of the designated insurer that cannot meet the obligations that have been entered into for one reason or another.

I welcome that change in the legislation because I think that while the automobile insurance situation does not have the local media interest it did five or six years ago, there is still the requirement to consider the appropriateness of the calculation of premiums, the amounts which are going to be charged to consumers, and the ultimate responsibility to pay the variety of obligations which occur and exist under policies that have been entered into.

**2:20 p.m.**

Another insurance theme does come forward with respect to the whole matter of the protection of individual privacy. As the minister will know, part of my responsibility in the opposition is to be the critic for the Provincial Secretary for Justice (Mr. Sterling), who has the responsibility of freedom of information situations within the province—I will not say the responsibility for legislation, because if that were the case we might comment upon the lack of legislation within Ontario. The theme of

freedom of information becomes as important in this ministry as it is under the policy secretariat, since, for commercial reasons, we have a variety of information-gathering groups that have practices which I'm sure cause the minister some concern.

I don't raise this point in view of the terms of control by government of information dealing with the private citizen. Rather, I speak about the control over consumer information, where a variety of business operations is able to gather particulars that add together to form what has been described as an electronic web in which the consumer has been spun. Let me read to you briefly from a transcript of a CBC documentary on this subject which was aired last June.

The comment was this: "It's been said that if you want to get a profile on someone, find out how he spends his money. The cheques he writes trace a revealing pattern of his life. Canadians write more cheques than anyone else on earth. Every cheque is handled an average of 14 times by the banks. The new electronic banking systems cut costs and streamline operations. They also represent a highly efficient method of following a person's financial trail, right down to the exact time and place that money was withdrawn.

"There is no clearly defined right to financial privacy under Canadian law. There is only a tradition based on old English common law that the bank will not disclose information about a client's account without his consent. But every time a customer fills out a routine form to open an account or to apply for a loan he signs away this consent, usually without realizing it. Anyone who has asked for a loan, used a credit card or opened a charge account is on file in one of Canada's more than 200 credit bureaus. Between them, these bureaus hold the records of more than 10 million Canadians. The biggest, the Montreal Credit Bureau Ltd., has 2.5 million customer files.

"The laws that regulate the credit-reporting business differ from province to province. In most provinces you have the right to check your file and correct any errors in it. The credit bureau is a clearing house of financial information. It gets its data from banks, department stores, oil companies, and conducts its own investigations on customers. In turn, it makes all this information available to other companies and businesses across the country.

"Today even your taste in pizza comes to the computer's attention. The computer's memory bank will store your name, address and phone

number and your weakness for double cheese and onions. Those useful tidbits of information will all be there, ready to be recalled the next time you fancy a quick and tasty snack."

Of course, we are getting to a particular electronic stage of data collection, and the minister referred to that in his opening remarks. Indeed, the transfer of funds—the change from the use of money to a variety of these electronic transfers, or the Instabank or Green Machine or other sorts of computer aspects which I presume are just in their infancy—is going to be a great challenge for this ministry in the next several years. No longer can any of us write a cheque and expect that we've got three or four days to find the funds before that cheque is presented. In fact, the transfer of those funds is recorded electronically and almost immediately within a matter of a few minutes.

This will continue as people get into the possible use of computers within the home to pay and record and deal with their variety of financial obligations. When we get to that stage there then becomes, as well, an obligation on the ministry to ensure the collection and appropriate use of data follow the pattern for the protection of privacy and for the reasonable collection of information which has been developing in this province for the last several years.

I talked about the Freedom of Information Act, the one that I brought in as Bill 98 and debated in the House. This bill no doubt was not perfect. It was a first attempt in our Legislature to try to come to grips with the variety of requirements that deal with freedom of information and attempt to balance the requirements for the protection of individual privacy.

I have no doubt this ministry, in conjunction with the policy secretariat and the Ministry of the Attorney General, will be able eventually to come up with a much more complete and involved piece of legislation. We have not seen it yet; we have not even seen a commitment to provide that kind of legislation. I hope that in the fullness of time, if not before, we will have an opportunity to see government legislation on this theme.

It is a particularly important theme, because individual privacy—a commitment I think interests us all—is going to become more and more challenged as we get into this whole electronic world. We read in the media every week the comments about the invasion of various computer programs by people who transfer money about or who try to obtain information. For every computer program, there is no doubt

someone sufficiently skilled to break into that program, to use it to his or her own advantage and, as a result, destroy the mechanical purpose by adding a variety of other strains to a program.

I am pleased to see the minister is mindful of these kinds of themes. The authority of credit bureaus to collect, maintain, change and deal with this great volume of consumer information is something we have to address intelligently. We have within Ontario now the opportunity to correct errors that have occurred. That pattern has been useful to many consumers who, because of what the neighbour said or because of a particular error in spelling or anything else, have found their credit records somewhat clouded and, as a result, inaccurate.

The issues at stake for the integrity of the individual in our society are of the highest order. It speaks to the question of what sort of society we want fashioned for ourselves and our children as we look at what the next 10 or 20 years may bring.

There is no slowing the advance of the machine. The minister in his opening remarks commented with respect to the challenges which even the next couple of years may bring as one generation of electronic fact gathering machines is replaced by the next one. We know of the involvement of the microchip and the computer and all these sorts of changes which our children in school are comfortable and familiar with, but for most of us are a completely foreign language. But there is some regulation of the machine that even we can expect. In an age where electronics and efficiency dominate, we have to insert the dominance of the mind and the spirit over the machine and in an age of communication en masse we have to speak for the rights of the individual.

This committee, as well, has to continue to consider the subject of electronic control of the marketplace. We must be aware of the developments that are going to face us in the next several years and ensure the manner in which they do occur is acceptable to the framework we think is important.

There are going to be implications for the consumer and there are going to be implications as well for those who work in the marketplace. The issues at stake for the integrity of the individual are of this highest order. We have obligations to try to plan ahead because these kinds of changes to the economic fabric of our society will also have an impact on the social fabric.

**2:30 p.m.**



The minister briefly referred to the matter of pensions and changes that he expects to see as a result of the report of the Pension Commission of Ontario, chaired by Mrs. Donna Haley. We recognize there are particular concerns with respect to pensions as a result of changes in the federal government's jurisdiction and in the attitude with respect to the protection of the individual by his or her own commitment as compared with the role of government to be the provider of last resort.

The importance of the proper use of pensions is even more highlighted and underlined by dealing with people as they face difficult economic times. The Pension Commission of Ontario, along with the provincial Treasurer (Mr. F. S. Miller), will be involved in the review and eventual possible implementation of the final recommendations of the select committee on pensions.

His report in March of this year is a most important one and is related to the report of the Royal Commission on the Status of Pensions in Ontario. I hope we will have the opportunity as we look at vote 1502 of the estimates to consider some of the concerns which the development of pension calculations and the expected cost and availability of funds to attend to increased pensions from a smaller work force are going to have on Ontario.

One minor issue, although it will no doubt come up as we look at the vote with respect to the Liquor Licence Board of Ontario, is the matter of duty free liquor shops. In June of this year my colleague the member for Windsor-Walkerville (Mr. Newman) asked about ongoing negotiations or discussions in this ministry with respect to the sales of duty free liquor. I would look forward, particularly when we are dealing with the LLBO vote, which is vote 1507, to having a discussion concerning the proposals which the federal government has made to open a variety of these establishments at border crossing points such as Windsor, Fort Erie and Sarnia. That is an area which has a certain consumer interest and aspect in one of the emanations of this particular ministry.

I was interested in the comments the minister made concerning the operations of the Ontario Athletic Commission. I was interested to see the *Globe and Mail's* investigative reporting which purportedly exposed rather shoddy supervision in this province over amateur boxing. It is an area with which I would not presume to be at all familiar, although I know the member for Fort William (Mr. Hennessy) has had an involvement

with that over the years. The thing that struck me at the time was that it would appear—at least from the comments made in that article—that there were not really many instructions given to the chairman, Clyde Gray, as to how he should follow through and develop the pattern of activity which was his responsibility.

I hope we will have the opportunity of taking a look to some extent at that particular matter, which comes in under vote 1504, since the Athletics Control Act is a particular responsibility of this ministry. I think we should be brought up to date in an area that ordinarily does not acquire very much interest during these estimates but, because of those comments if nothing else, is something we should hear from.

If you look at the comments the minister made later in his speech on page 59 of his notes, we recognize that we are all interested in attempting to make boxing a safer sport. It is an area that does attract interest and involvement from a number of people, although I must confess that never having invited the minister to step outside the House, I may not have the burden of being involved in the squared circle and the gentlemanly art of self-defence. The minister would use the Queensberry rules without question, but it is quite apparent in this province that there is a great variety of people involved in this sport who do not use those rules.

The idea of the passport licensing system is a step forward. We have read of the difficulties when even those passports apparently are able to be exchanged or compromised, resulting in false information being provided. This results in some severe penalties which, I trust, will get the attention of those who might try to do it another time or in another place. So that is helpful.

It is important to ensure that those in charge of this activity are properly and thoroughly informed as to what their responsibilities are. It is an area which was not achieved much interest over the variety of years on this committee, but it is one of those areas which occasionally, through some tragic accidents, reminds us that we have a responsibility there. We have to ensure we are doing the best we can in that particular area.

There is a variety of consumer price issues that come forward as we look at the operation of this ministry, not only in the ad valorem taxes that are piggy-backed on to the costs of energy, but also the impact—a concern that was raised by my colleague the member for Kent-Elgin (Mr. McGuigan)—of the gasoline price wars in

large communities on the neighbouring smaller communities.

We know the Consumers' Association of Canada is alarmed at the seemingly open-ended and almost regular increases in the prices of gasoline. We are all involved in that particular aspect, and I recognize that as a result of some agreements and also as a result of some imposition of the federal will, the province has less than complete control over any of these energy changes. But they are, to a degree, living off the avails in the sense that the ad valorem increases do raise many millions of dollars of revenue within this province.

I would like to hear from the minister as we look at the ongoing votes as to what he has heard from a consumer point of view with respect to the increases in the cost of gasoline and the apparent unchecked prospect of further increases and their impact on the Ontario economy.

Earlier on the Treasurer was most mindful in a number of his budgetary presentations of what the effect on the Ontario economy was from an increase of one cent per gallon, or several cents per gallon, with respect to the impact on jobs and other matters within the province. I hope the Minister of Consumer and Commercial Relations is monitoring that same kind of theme so that we are aware at least of what these costs are and are therefore in a position to decide whether we want to accept them or not.

The minister mentioned in his opening remarks the matter of travel fund compensation. I must say I was pleased to see the way in which the travel industry was able to respond to the Skylark-Sunflight situation. I think the minister can take some credit for the fact that only a few hundred of the many thousands of people who had planned trips were discomfited as a result of this situation. I suppose that is not much consolation to the several hundred people who were upset because of this particular situation, but in a somewhat imperfect world the results of this travel program—the bonding of agents and the other involvement the ministry has been active in—did seem to work for most people. I think that is a most useful step forward and one that now can be refined so that, hopefully, we might get to the perfect world where no one is compromised, but that may take some time.

**2:40 p.m.**

Another item that was of interest to me was with respect to the central credit union operations and the liquidity plan which has been developed. There was, over the last year or so,

considerable activity among credit unions in the province when they were concerned with the ministry's attempt to reorganize the credit union central. I hope when the time comes during that vote that the minister will bring us up to date on the whole credit union operation so that we will be in a position to know what changes have been made and where we are with respect to ensuring that the credit unions of this province are able to meet their obligations.

This will appear more particularly under vote 1502 in the financial institutions division. It is an area that I think is of concern because many members have credit unions that are operating and have been required to be involved in this program—some willingly and others not quite so. It would be worth while to hear what has transpired so that we can be assured that credit unions generally are in a good financial position.

Another item that comes to mind is a press release recently seen in the *Globe and Mail* with respect to the assets of nonprofit and charitable groups that could be seized by the province if their charters were not revived by November 1. The assets referred to were for some 2,061 of these organizations. I would like to have a report eventually from the minister with respect to the status of that issue. The reviving of charters is something that can be attended to where, through inadvertence, this has not occurred. I think it is something that has to be rather carefully reviewed. I hope the minister can comment on that matter during the appropriate vote.

One of the areas within this ministry that we do not often have time to deal with is the technical standards branch, or technical standards division as it now is. During the hearings of the select committee on company law we were apprised, under boiler insurance and various other kinds of insurance discussed, of some of the activities of this branch of the ministry which has some aspects that are, to a degree, parallel to the activities and responsibilities of the superintendent of insurance.

The elevating devices branch within the technical standards division was recently involved in an investigation of a fatal elevator accident in early February that resulted in the death of an elderly woman resident in an Ontario Housing Corp. high-rise building in suburban Metro Toronto. As I recall the event, which was a most tragic one, this lady, who did have a vision problem, went forward at the time that the doors opened, but unfortunately the car was not

there and she fell to her death. It was a most unfortunate and sad occurrence.

I would like to hear at the time that we are dealing with vote 1503 the results of that investigation and what the minister is doing to ensure that elevator safety, particularly in high-rise buildings, is being properly and appropriately maintained.

Finally, there is one theme I should allude to—following those hearings which were suddenly terminated by the call of the last provincial general election—and that deals with the Astra/Re-Mor situation. While you were not the minister at that time, there are many of us, not only on the committee but in the Legislature, who were as concerned as you were with the circumstances of the defrauding of a large number of depositors who were conned into placing money with Re-Mor when they thought it was with Astra and a variety of other aspects of that.

Those persons have waited almost two years now, from the time when we were looking into this matter at the committee stage, to have a number their particular concerns resolved. When you are talking about the financial institutions division, I would like to hear some response with respect to how close we are to the prospect of a settlement of a variety of these claims. I recognize the federal government has a responsibility in this area, but it appears to be one which it is reluctant to accept unless all of the other alternatives are followed, which include a number of particular legal actions.

Where there are depositors who are becoming older—some have died in the meantime—it becomes a particular burden as one talks about the incorporation of a company and the licensing of a company. There seems to me to be some mutual responsibility in this area. I would hope that many of these claims can be resolved if there is some give and take on both sides.

When we get into vote 1502 I would like to hear the response with respect to how close at least some of these claimants are with respect to the actions that were raised initially and which were supposed to be the flagship claims upon which many of the other claims might be settled.

Those are a variety of particular themes in this ministry. It is a ministry which, through its 72 pieces of legislation, does cover a broad and interesting aspect of consumer and commercial relationships which involve every one of us. Even though the issues I have raised today might not be those that anyone else in the room might have chosen as 20 things upon which to

encourage or require the ministry's involvement, they are themes which affect a great number of our constituents.

There are many other themes in the ministry, things we will come to during the dealings with each of the votes on the days which we have set aside. I think with those remarks I will turn it over to the member for Welland-Thorold.

**Mr. Chairman:** Mr. Swart, you have been waiting patiently in the wings.

**Mr. Swart:** Mr. Chairman, I am glad to be part of the trio in these leadoff statements that we have today. I would like to compliment the minister for a very comprehensive statement and one with substance in it.

I also appreciated the comments of the member for Kitchener (Mr. Breithaupt), especially some of his sort of philosophical statements with regard to lifestyle advertising and the effect that has on our society. I should tell this committee that when I asked the member for Kitchener this morning how long he was speaking, he said 15 minutes.

**Mr. Breithaupt:** I didn't realize. Time goes so quickly when you are enjoying yourself.

**Mr. Swart:** The only thing I hope is that if some time a doctor gives me only a couple of hours to live, you are the timekeeper, Mr. Breithaupt.

**Hon. Mr. Elgie:** I'll be the timekeeper.

**Mr. Swart:** Oh, no.

As has already been said, these are the first estimates we have had with this minister. I want to congratulate him on his appointment to this portfolio.

I would remind him they go through ministers pretty fast in this portfolio. In the seven years I have been in the Legislature there have been at least five ministers. In the time I have been associated with the portfolio of Consumer and Commercial Relations, I think there have been four.

The incumbent minister when I came was Sidney Handleman, who was a conservative and didn't deny it. He was against rent review and a great many other things. He said what he meant.

Then, if I remember correctly, he was followed by the present Minister of Health (Mr. Grossman), who was and is very smooth. I wouldn't go so far as to say slippery, but he can sure manoeuvre very adroitly. He was totally political, and I never did find out where he really stood within the conservative political



spectrum. Wherever it was politically wise to be, I guess.

**2:50 p.m.**

Then we had the present Minister of Community and Social Services (Mr. Drea), who was bombastic and liberal. He really wasn't as liberal as he pretended to be. It was mostly rhetoric. Then we went to the present Minister of Industry and Trade (Mr. Walker), who was a quiet-spoken, rather pleasant person but ultraconservative—if anything, on the right of Ronald Reagan.

Now we have the present minister, the member for York East (Mr. Elgie), who is, as I say, a very pleasant, decent person, a liberal in the context of the conservative spectrum. He's the best of the lot but, of course, he is still tied to the conservative philosophy.

**Hon. Mr. Elgie:** You're killing me now.

**Mr. Swart:** Let me say, at some point one has to establish that balance.

I do immediately want to congratulate you on the intervention that you did with Bell Canada on the decorator and lifestyle phones and cause them to send out a notice to those who had bought the cases, the outsides of the phones, that they could now have them free and would no longer have to pay the extension charges. I don't know whether you have computed what that meant or not but it probably is in the neighbourhood of two thirds to three quarters of a million dollars yearly to the people in this province and the people in Quebec or Newfoundland, or wherever Bell Canada serves.

I want to point out to you that even in my press release I gave you a compliment. I quote from my press release of August 26, 1982: "I want to compliment the Minister of Consumer and Commercial Relations for vigorously pursuing the matter with Bell. It is doubtful that his predecessors in that ministry would have been successful or even tried." I think that is a factual statement. I do appreciate what you did in that instance.

It has already been mentioned that your ministry has a lot of responsibilities. That may be one reason the ministers don't stay too long in that portfolio. To me, the dominant one is consumer protection and, as has already been mentioned here today, that is taking on some new dimensions. It is protecting consumers against the collapse of businesses, which may not be entirely new, but it's certainly new in degree. As has already been mentioned, we have the Ontario travel compensation fund

which has assisted those travellers who had flights booked through failing businesses.

We have a bill before us to amend the Motor Vehicle Accident Claims Act, which is going to give some protection. As you know from last night, it does not go as far as I feel it should. I hope you will accept my amendment when it comes before you with regard to extending it to collision and personal injury where personal injury was suffered in a collision for which no other motorist was responsible.

There is going to be the extension, I'm sure, because it's going to be very necessary, into the franchise field and into the so-called life memberships in the health clubs. Also, I'm sure there has to be much more protection, maybe not in the field of additional legislation, in the collapse of financial institutions. I understand that just a few hours ago there have been four charges laid with regard to Argosy Financial Group of Canada Ltd. against the principals. I hope you deal with that in your reply. There may well be reason that this committee should be looking into that matter as we looked into Re-Mor Investment Management Corp. and were cut off so abruptly.

I want to say further to the committee that I believe you will run your ministry in an open, fairer way with less partisanship than has been the case traditionally in this ministry. I am sure you are aware that political patronage has been perhaps more prevalent in appointments to and among employees of the liquor control board and some of those agencies than in most other ministries of the government. I really do feel you will be correcting that situation to a very substantial degree.

I think you will deal firmly with the ripoff artists who are going to misrepresent their products and their services and I also think you will have a handle on your ministry's operations. I'll just say finally that you will be an excellent administrator and, I think, even an innovator within the philosophy in which you and your government operate.

As you would expect, having made those complimentary and actually sincere remarks, I am afraid the ministry under your direction is going to go on being a failure in giving any kind of price protection, apart from other types of protection, to the consumers. I guess it's your conservative philosophy and the conservative philosophy of your government, but certainly the record to date has been pretty dismal since you've been in that portfolio, whether it's on the issue of Consumers' Gas—and I'll go into that a

little bit later—whether it has been on the issue of milk, on the issue of rent review, or on the recent increases in the price of gasoline, on which you may yet want to report here and to the House, where the refiners took a 52 per cent increase. Certainly it doesn't give us any cause to believe that you are really going to do anything meaningful in the area of price protection for the consumers.

Last year I made most of my leadoff remarks on the matter of price protection on two things: one, the maintenance of competition; and, two, government intervention on behalf of consumers when that competition is not there. This year I am going to return to that theme. First, the need grows. In today's society, in the economic condition that many of our people find themselves in, unreasonable prices cannot be tolerated.

Second, the concentration in manufacturing and processing and all of those areas is increasing at an accelerated speed. I guess the present economic conditions contribute to that, where more and more companies are either going broke or being taken over by larger companies. That's understandable. The competition system simply is not working in many areas.

You will know that this last spring there was a new company set up, which is the purchasing company for Dominion and Steinberg, which is Dominion and Miracle Food Mart. Loblaw's and one of the other main grocery stores also have combined, and there is no question that competition is disappearing and disappearing very rapidly.

In your comments you mentioned innovations in the electronic area. That's all very true, but accompanying that is this great change in competition in our society, which is partly due to these sorts of things. Competition in many areas is becoming less and less and is disappearing.

**3 p.m.**

To give an example of how competition doesn't work, last April I took a clipping of an article by Jim White in the *Toronto Star* headed, "Vanilla Goof Proves Point." It says in part: "Unjustified hikes in the price of pure vanilla are a good example of why groceries should continue to be individually priced, an official of the Consumers' Association of Canada says.

"The vanilla incident increases the evidence of a lot of things we have been saying but haven't been able to prove," said Ruth Jackson, vice-president of the association, referring to a story published yesterday in the *Star*.

"Three supermarket chains had jumped the price of vanilla by up to 21 per cent. A simple

error made by a clerk at Miracle Food Mart in February led to the chain-reaction price hikes. Instead of increasing the price of French's artificial vanilla as he had been told, the clerk increased the price of pure vanilla, a company spokesman said.

"Two weeks later Loblaw's raised the price of its pure vanilla (Club House brand) by 13 per cent to \$5.99 for 125 millilitres, and a week afterwards Dominion raised its price 21 per cent, from \$4.93 to \$5.99. The manufacturer said no price hikes were justified because the wholesaler's costs had not changed.

"It appears we followed one of our competitors in raising the price but we're not sure why," Roger Acton, vice-president of merchandising for Dominion said in an interview.

"Jackson also said she was discouraged competition between supermarkets wasn't strong enough to prevent price hikes from happening in the first place."

That is perhaps a very minor item in the whole context of things, but it sure indicates very clearly that the old competitive system on which our society to a large extent has been based, and to a large extent will continue to be based and should continue to be based, is not functioning the way it did. The competition, at least in some areas, is getting less and less.

That's a second reason why I'm dealing with this issue of prices again. I am dealing with it again because theoretically the feds are still going to table a bill to strengthen the competition law. I feel very frankly that your government will have a major determination on whether the federal government proceeds.

I want to repeat that because you were busy making some notes. I am saying that whether the federal government proceeds with its new anti-combine or competition legislation, whichever you want to call it, will be determined to a very large extent by the stand you and the Ontario government take on that issue. I say right now, and I'm going to deal with this a little bit later, that your predecessor, the minister who was in your office prior to you, had done more than anyone else to kill that bill—more than any other single person.

Another reason I'm dealing with this matter now is the restraint bill which has been introduced, Bill 179, in the Ontario Legislature. It has a section which supposedly is to restrain some price increases. I would point out that is the first time ever, I believe, in the history of Ontario that you have given yourself power of that type,

to restrain prices, even though you have that power, as you well know, under the Constitution.

Further, another reason I'm dealing with this is that I have not heard you mention your philosophy on this matter of the diminishing competition we have, and the alternatives: what we can do about it to assure that the consumer is protected either by competition or by some kind of direct price intervention. I regret that you didn't mention it in your comprehensive statement.

Finally, I bring it up because Mr. Jack Biddell, who is heading up your restraint program and the restraint board, himself made some fairly strong comments on how he feels we should deal with the matter of consumer protection on prices in an article in the chartered accountants' magazine back in 1980. I will, in fact, be referring to that somewhat later in my comments.

We want to know whether your views on these matters are the same as your predecessor's. Do you hold the same views with regard to the lack of need for competition as your predecessor in that office did? I hope we can persuade you that on consumer price protection you must do a whole lot more than you have done as minister up to this time.

You have stated in your speech on Bill 179, and perhaps elsewhere—certainly your government has—that you want the public to believe you consider inflation to be the major issue in our society at this time; at least, the major economic issue. I think you believe that. You said it in the speech you made in the House on Bill 179 and I want, if I may, to remind you of what you said in that speech.

I was disappointed in that speech, partly because it was only nine minutes long and partly because you, as the minister having responsibility for the measure of price control that is in that bill, did not even comment on how you planned on operating that section or what your philosophy was with regard to it. That was quite a bitter disappointment to me, because I feel very strongly about the need to give greater consumer price protection.

You stated, and I am quoting from Hansard of September 23, 1982: "The key issue facing governments today in this country is inflation. From it flow high interest rates; from it flow mortgage failures; from it flow bankruptcies; from it flows currency instability."

Then you went on to say—and I am not going to read it all into the record, but you deal with those four matters you mentioned individually—and then you say: "Frankly, the downturn in

economic activity and the interest rate problems all are focused therefore on the single public policy issue: inflation. I think there is general agreement that issue has to be faced and dealt with." So far we are on the same wavelength.

Then you say: "I do not profess to be the world's authority on public policy measures one can look at but, as I see it, there are three public policy measures one could look towards to deal with the problem of inflation, and two of those have been in the forefront in this country for the past several years. The first is a restrictive monetary policy, which we have seen with the limitation on the flow of money and with high interest rates. The second is a restrictive fiscal policy, with government restraints and higher taxation to reduce the public's ability to purchase products.

"I think it would be no surprise to any of the members, and certainly it is not to me, that although the application of these principles has been varied from province to province and different parts of the country, I see no evidence that as a macroeconomic tool it is doing the job. Therefore, as people who have to try and solve these public policy issues, we must look to the only third alternative we have, and that is an incomes policy, a policy which endeavours, through an incomes and prices control program, to limit the upward income demands of people and the upward prices we are paying for the products." You conclude by saying: "That is the reason the bill is here today. It is to address the issue of inflation and the things that flow from it."

We share with you, as I have said, our concern about inflation. We don't share with you some of the techniques and the programs you have for dealing with it. We might even dispute your contention that inflation is really the major issue in our economy. I think we might say the state of the economy and unemployment is really number one, and that the battle against inflation, if waged in the wrong way, can be really harmful.

**3:10 p.m.**

We can say there has been a real improvement in inflation with regard to food prices; food prices have gone down. That, on balance, is damaging to our society. The reduction in food prices to the farmers is extremely damaging to our society. By itself, just to say that to reduce the price level is the answer is something with which this party cannot wholeheartedly agree.

But, it is true to say we are not here in these



estimates to debate the whole economy, so I will stick to the consumer prices, an area where your government—at least, on the end prices and back up the pipe in some instances—has some control.

I would like to interject here, because I think it is relevant to what we are saying, that we in this province, in this nation and in the US are not really doing very well in the world as a whole with regard to fighting inflation or, perhaps even more important, with regard to the standard of living. Maybe it is time we looked to some of the other countries—those that have democratic socialist governments and have dealt with things in a different way—to find some methods of dealing with the economic problems and the inflation we have here.

You are probably aware the Associated Press, in an article on August 16, 1982, contained a report from the World Bank which starts off this way:

"Canada ranked 11th among industrialized countries in terms of per capita income in 1980, the World Bank says.

"The United States continued its long-term slide, falling to ninth place, while the United Kingdom was ranked in 15th place. Rankings for Canada and the UK for 1979 were unavailable.

"Ranked seventh a year ago, the United States has been overtaken by France and the Netherlands, the international lending organization said Sunday in its annual world development report.

"The rankings are based on a country's gross national product, divided by its population, and are expressed in terms of US dollars. Gross national product measures a country's income from its sale of goods and services both at home and abroad."

Then it goes on to give the figures of the leading countries in the world on income per capita. Here we have Canada and the United States, which for at least three decades were number one and number two in that reverse order—the United States number one and Canada number two—now down to ninth and 11th. We are still the countries with the greatest natural resources per capita of any country in the world, and with the highest degree of technology. There is something wrong that we have dropped down to where we are and it brings into question in a substantial way the economic policies that have been followed in this country and in the United States.

For purposes of a discussion on inflation and prices I would like just to quote as a definition

what Mr. Jack Biddell said back in his article in January 1980, in CA Magazine. "Simply put, high inflation is a continuing unacceptable rate of increase in the prices we have to pay for the goods and services we consume." None of us would disagree with that interpretation.

What we are really talking about when we are talking about inflation is the consumer price index. It is important for us to realize that the definition of inflation which was prevalent and was conventional wisdom 20, 30 or 40 years ago of "too much money chasing too few goods," is no longer applicable. It is not really inflation we have at present.

The inflation we talk about is simply how much the prices of goods and services are escalating. If that is what we are really dealing with—escalating prices of goods and services—then that's where we had better look first if we are going to be fighting inflation. Maybe we have to control prices. That's not the whole answer, of course.

We dispute, though, your theory that excessive wage and salary hikes have been the main cause of inflation. Rather, we say the greatest cause of inflation has been the interest rates, and I have all kinds of newspaper clippings from economists and others here that would bear out that argument. I don't intend to read them all.

I have one here by the economics correspondent in Ottawa, Ernest Russell; he is a consulting economist and a Fellow of the Royal Economic Society. He says: "High interest rates are a direct major addition to every cost, which pyramids through the entire production process at all its levels and, distributed through all its phases, is quite capable of doubling, tripling and even quadrupling the selling prices."

I doubt there is any disagreement here. There may be disagreement on why interest rates are up there and what you can do about it, but I don't think there should be any disagreement about the fact interest rates are the major cause of inflation. There is no question about it. Interest rates are the major cause of rising prices. It does not matter whether we are talking about small business, or whether we are talking about the farmers. It is not wages that has caused a number of farmers to go into receivership, it is primarily the high interest rates.

Mr. Minister, you know very well, from your portfolio, the real problem in rent review has been high interest rates. I have fought numerous rent review cases before the commission and in every case where there was a really large increase, an unreasonable increase in the 20 or

30 per cent range, which was allowed, it was because of new financing or the renewal of mortgages raising the interest rate from 10 to 20 per cent.

Quite frankly, Mr. Minister, I can never understand the philosophy of your government, and for that matter of the federal Liberals, when they are prepared to intervene, with all of the hardships it may cause and with the breaking of contracts and everything else, to hold or roll back wage increases and yet take a hands-off policy on interest rates.

Is there something more morally wrong about intervening? I realize you are not the ones to do it. It is the federal government's responsibility, but I also realize your government has also been very ambivalent on this. When it is good politics to say, "Oh, yes, we are in favour of lowering interest rates," you have frequently said it, but you have never gone so far as to say the government should directly intervene with the Bank of Canada and order interest rates down, as they have the power to do, because they are damaging society.

I think it would have been reasonable to have said that to the federal government—it is true interest rates are falling now and nobody needs to borrow the money any more, but it would have been reasonable to have intervened with the federal government and said, "Look, we are not prepared to put this penalty on our employees, breaking contracts and rolling back wages, unless you are prepared to intervene with the Bank of Canada." Somehow or other it seems to me to be a good balance to say that kind of thing.

So we say the wage increase is not primarily the cause of inflation. We know that wages, of course, are part of total costs, but we also know that average wages and salaries over the last three or four years have not kept pace with the cost of inflation. There must have been something else over and above that. Of course, one of those factors was the high interest rate.

**3:20 p.m.**

I'm sure the minister will agree that another major factor at the present time, and why there is an escalation in prices that wouldn't otherwise take place to the degree that it has, is that our economy is running at only 70 per cent capacity. I don't care what business or enterprise it is or whether it's a group of enterprises, you can't produce efficiently and at low cost when you're running at only 70 per cent of capacity.

Of course, the state of the economy means \$7 billion or \$8 billion is going to be paid out in

unemployment insurance this year and other billions are going to be paid out in welfare and other forms of income support that have to come out of society someplace. I'm sure you're aware of that. It has to be paid for by being added to costs that are added someplace in our society.

Obviously, we in this party say that's a legitimate cost. If people are going to be unemployed, they should be reasonably well kept. We would like to see that even more if we want to have any fair sharing of the problems we have in our society. Nevertheless, that's part of our costs; that's part of the reason for the increase in prices.

The final thing we say is that there have in fact been ineffective price governors in our society, both at the provincial and the federal levels.

I just want to add that, as I said before, we recognize that wages and salaries are a major part of the selling price of any product. But wage increases traditionally have come out of increased productivity and technological innovation and greater efficiency; we used to use the old term "automation" which seems to have gone by the boards. These were sufficient to pay extra wages, which resulted in real increases in the standard of living. It's not unreasonable to expect that those workers today would feel that it at least should keep up with the inflation rate.

We in this party believe that the wage intervention, apart from being ineffective, has civil rights connotations, the breaking of the binding contracts. I suggest to you that is serious, Mr. Minister. I wonder what you would think or the business community would think if the minister of highways let a contract for \$5 million to build a section of highway and part-way through that said, "We're going to pass an order in council and we're only going to pay you \$4.5 million." They would be inclined, I think, to sue the government of Ontario for breaking a binding contract, yet we're doing exactly the same thing with regard to public employees in this province.

What we are really saying is what your government should have been doing is intervening in interest rates, introducing an economic strategy; and we recognize once again that the province itself is not an island and there are limitations on what it can do, but you haven't done what you can do. You should have been assuring adequate research and development in this province so that we can keep up with the technological innovations, and you should have been seeing that prices are not excessive.

It is in this latter area that your ministry and

your predecessors have had direct responsibility and in fact have done nothing about it. You've permitted excessive pricing. You've permitted excessive profits. You've seen the consumer exploited on prices and you've stood by as a spectator with your government most frequently hardly even an interested spectator.

You tell me, and rightly so, that profits aren't excessive now. I know profits have dropped by 50 per cent this year after a 21 per cent reduction last year, but there are still many companies, manufacturers and processors that are still doing all right where competition doesn't enter into the picture.

In addition, I want to say to you the excessive prices and profits of the past are part of the problem today. The money which has been taken away from the consumers of this province in excessive prices contributes to some degree today to the inadequacy of their purchasing power.

As I have said, there are many areas today where prices are still excessive: those basically which are sheltered from competition, whether they happen to be monopolies or whether there are only a few companies, or where there is some either overt collusion or where there is some understanding between them.

I am sure you are aware of the situation with regard to the salt industry, because I have raised it in the House two or three times. You must know there are only three salt companies supplying this province. There are only two really supplying the domestic market and those are Domtar, Sifto Salt, and the Canadian Salt Co., which is Windsor brand and others. If you have watched their profits you will have seen they have been increasing pretty dramatically. Even this year so far they have been increasing rather dramatically and I suggest to you, with some validity, that this could be because there are only two or three companies; there is, in effect, very little competition left there.

You will know that I have raised in the Legislature the matter of the dramatic increase in the price of cereals. For instance, Cheerios, from January 1979 to now, have gone up from 86 cents to \$1.63, a 95 per cent increase. Kellogg's Corn Flakes have gone up from 95 cents to \$1.67, a 75 per cent increase since 1979.

Even though what is sold here is made here, we have the same products made in the United States and sold in the United States at two thirds of the price of what they are selling for here. Once again, if you look at the profits of these

companies, you will find that they are really quite excessive.

I have two of the reports here. General Mills, for instance, says: "Despite the widespread economic problems that characterized the past 12 months I am pleased to report that the General Mills family of companies experienced another successful year. Consolidated sales revenue in fiscal 1982 rose 5.2 per cent to \$205 million, compared with \$192.6 million in fiscal 1981. Net earnings before an extraordinary loss item were \$9.5 million, an all-time record, and 27.6 per cent greater than those of the previous fiscal year."

If we look at the report of the Quaker Oats Co. we find the same sort of thing. Let me quote from that:

"The Quaker Oats Co. of Canada Ltd. achieved record sales and earnings in fiscal 1982. Net sales rose 15.1 per cent to \$184.2 million, and net income before extraordinary items improved by 21.3 per cent to \$5.9 million. This followed a year of exceptional progress in fiscal 1981 and during the past five years net sales and net income before extraordinary items have grown at a compounded average annual rate of 11 per cent for net sales, and 14.5 per cent for net income."

I could go on and give you other examples of this. One can mention detergents as another area. I will not take the time to do that; I am just trying to point out to you that there are areas where profits are excessive, largely because of lack of competition. I am sure you are aware there are only a few cereal companies left, and that they were charged in the United States as a combine and taking 15 per cent excess in operating as a combine.

**3:30 p.m.**

Because we have many of these producers who have little in the way of competition, there are excessive prices and they are overcharging.

Another area where there has been an increase is in auto insurance, and this is a different situation I will admit. This year there are dramatic increases in the price of auto insurance. This was covered by the member for Kitchener.

Although you may come back and say to me they have not been making excessive profits, I say to you that the increases this year, if they proceed with them, will enable them to do okay. In a time like this, with people suffering the way they are, maybe you should be looking at another system, a system like that in the western provinces which I was talking about last night,



where it is shown that service can be provided much more economically under the public system than it can be here.

We are not talking about any small amount of money in this province. Insurance premiums now are way in excess of \$1 billion. What would they be? Perhaps they are up in the neighbourhood of \$1.2 billion now.

As I say, there is very strong evidence that competition in some areas is sufficiently minimal that it is not protecting the consumer. I think that is not an unreasonable or an inaccurate statement.

A major part of the attack on inflation must be on unnecessarily high prices. This is where we in the NDP separate from the Liberal and the Conservative philosophy. You say that the marketplace looks after everything; if we leave everything to the marketplace the world will unfold as it should. We can agree with you that where real competition exists it can control prices.

We say two other things: One is that you must intervene to ensure that there is competition; if there is not competition you must look to some other alternative to give price protection to the consumers of this province.

We find ourselves substantially in accord with what Mr. Jack Biddell thinks, at least with what he wrote in his article in *CA Magazine*, which I have here. You have probably read it yourself. I am sure you would have, now that he is going to be the director of your restraint board.

He says this, and I want to quote; this is from the chartered accountants' publication dated January 1980. I read you the first clause: "Simply put, high inflation is a continuing unacceptable rate of increase in the prices we have to pay for the goods and services we consume." I go on from there: "To contain inflation effectively, we must slow down the rate at which prices are increasing—we must control prices."

"Most people believe that this is just what the United Kingdom, the US and then Canada did under our respective anti-inflation programs in the last five or six years. The fact is that, except for a very brief temporary price freeze in the UK and the US programs, none of us did.

"We did not control prices. We attempted to control some profit margins, and we controlled wages and salaries and we controlled dividends—all in the hope that by doing so we would inhibit price increases. Our efforts had some success, but not nearly what we might have had and could, in fact, achieve now, if we set about it in a

more direct fashion—by directly controlling price increases."

This is Mr. Jack Biddell who is saying this. I agree with that entirely. Back in 1980 I was also saying that there was a place there for intervention.

He says, "In many places in our economic system prices are quite effectively restrained by competition. In many other areas, however, we must devise and adopt measures to limit the inclination, if not the ability, of many Canadian sellers to raise domestic prices.

"Let us look at this varied group that partially controls our economic destiny. First, we have the vendors of products, mainly natural resources, whose prices are set on the international market. Canada has little ability and no real need to try and control their export price. But if we are to contain inflation in Canada and also keep our manufacturing industry competitive, particularly with the United States, we shall eventually need to contain the domestic prices of many raw materials. As long as our domestic industries have the protection of our present rate of exchange with the US dollar, however, we need not attempt to control the domestic price of these international commodities.

"The second major category of vendors includes most retailers, agricultural producers, builders and contractors and certain manufacturers of nondurables. By and large, the price-setting activities of these vendors is greatly affected by foreign and domestic competition. Where the competition is effective, price controls are unnecessary." Does that not sound somewhat similar to what I have been saying, and I have to say I had not read this article until the last few weeks?

Biddell goes on: "The third category includes the majority of manufacturers and most of the service industries. Although influenced to some degree by competition, this is the group with the greatest ability to pass on to the public its additional costs, plus a profit margin, simply by raising prices. If we are to contain inflation in Canada, this is the group whose prices must, in some fair but effective manner, be effectively controlled."

That is a pretty positive statement. It is the kind of statement I agree with. I do not want to take this out of context and I do not think that I have taken it out of context. What you have here is Mr. Biddell saying at that time, when price rises were at their maximum, or close to it, that what we need is direct price controls in certain areas. Then he goes on to say that we need an incomes policy, but he also states that

that is voluntary. Would you like me to read you that section? He believes that should be left voluntary. I will read it to you.

He says: "I believe that the new income guidelines should be somewhat different than those used in our recent program. Moreover, compliance with them should be voluntary instead of mandatory." That is the statement of the person who is heading up our Inflation Restraint Board and that is exactly what I would like to see done in the prices field.

The fact is, of course, and I am sure you recognize this, that if you strongly or strictly limit prices, you also control the input costs, including wages. This was true in the auto industry for many years. When General Motors was year-by-year making a profit of 25 per cent, wages went up quite rapidly. You cannot blame the worker for going after that when he sees those kinds of profits. If you keep the lid tightly on the top of this double boiler, it does not boil over.

That is what he is suggesting you should be doing. What Mr. Biddell is saying here is that competition is not working in some areas, and I would not be misquoting if I said in many areas, to keep prices down. Therefore you have to have some direct price control. This lack of competition has been recognized at the federal level for many years, for decades.

In fact, we do not have adequate legislation to control prices and to ensure that there is competition so that prices can be controlled. One question I want to put to you today is this: Where do you stand on the matter of the federal proposals to toughen up the anti-combines legislation? I am hoping you will deal with that at some length in your reply. I ask you that specifically because your predecessor, as I have already stated, the present Minister of Industry and Trade, as much as any other person, has delayed or even killed the federal proposals. Let me review briefly the recent history of the attempts to improve the competition law in Canada.

**3:40 p.m.**

I have here an article by the Institute for Research and Public Policy by Irving Brecher, who is chairman of the department of economics at McGill University. I just want to read a little bit of that to you and to the committee. He states: "In December 1960 I published a general critique of Canadian competition policy in the Canadian Bar Review. A major implicit premise was that the basic economics of competition and monopoly could be readily communicated

to politicians, businessmen and much of the public at large, and that once intellectually sensitized, the federal government would readily move to the kind of competition policy best suited to the efficiency and growth needs of the Canadian economy.

"It was a characteristic economist-type premise of the times. It was also extremely naive. The past two decades have dramatized the extremely important role of interest group pressures, especially from the business community, in the development of Canadian competition policy. Indeed, it has become the conventional scholarly view that the legislative record of failure and frustration is almost entirely attributable to the fierce resistance of self-serving Canadian businessmen with a solid grasp of the economic issues at stake and with an exclusive dedication to minimizing governmental constraints on private decision-making in the marketplace."

Then he makes this comment: "In relating statutory results to professed aims and potential benefit, I rank the story of competition reform among the saddest experiences in Canadian public policy."

Although you may not agree entirely with my views on the need for competition, I think you would realize that really has taken place at the federal level. They have been trying to improve it for 15 years. They bring in new legislation, and every time they do, pressure builds up and they are forced to not proceed with it. They are forced to abandon the new legislation on the improved competition laws. There is a need for it in Canada.

On June 15, 1981, after he had released the discussion papers and said the government was going to proceed with this new tough competition law, Mr. Ouellet said: "Canada has the highest concentration of corporate power of any of the western democracies, but the weakest anti-combines legislation."

Earlier that year he had said: "Time is short, since we are presently witnessing a new outbreak in the area of mergers and acquisitions in the country. If this phenomenon should continue for another three or four years at the same pace, the control of the entire Canadian economy could literally be in the hands of six or seven. . . ." That may be an overstatement, but Mr. Ouellet said that, and he is not a member of this party.

Robert Bertram, the ex-director of the federal anti-combines branch, was quoted as saying: "What we will have if this march of increased concentration continues is a national oligarchy

in which a few dozen people will interact to bargain about the economic future of millions." You may say they are overstatements, and they may be, but I think we have to accept that something is seriously wrong in our lack of competition laws and our inability to enforce them.

I want to go on to point out that there are a great many editorials that were written at that time, in 1981, for stronger anti-combines legislation. I have one here from the *Kitchener-Waterloo Record* of September 9, 1981, which reads as follows:

"It's been said that if Canada had an effective anti-combines law, there might be Canadian-owned and Canadian-controlled automobile companies. The American Big Three would not hold all the chips and Canadians would not be helping to bail out Chrysler.

"If Canada had such a law, we would not have several department store chains under the stewardship of one mega-corporation and oligopolies in the beer, liquor, tobacco, food processing, supermarket and banking industries, all paying lip service to competition.

"So, to read that some sort of toothy anti-combines law is to be introduced this fall as top priority incites a sarcastic chuckle. The current Combines Investigation Act is a joke."

You may disagree with that, but a reputable newspaper makes those kinds of comments. I could give you more quotes from Mr. Ouellet. I would also like to point out what the independent petroleum marketers had to say on October 27, 1981. They said the federal government must resist an intensive lobbying from big business and push ahead with its proposed legislation to toughen laws governing competition. That is what the Canadian Federation of Independent Petroleum Marketers said.

The group, representing small Canadian-owned petroleum marketers, said: "Monetary and fiscal policy with its emphasis on high interest rates is not the way to fight inflation and unemployment. Canada's basic economic problem is the abuse of market power by dominant firms in oligopolistic industrial sectors." I could go on to read it. The rest of that article expresses the same type of view.

I have something further here from the *London Free Press* which I will not take the time to read. We have a statement in September 2, 1981, saying the new competition bill will get priority in the House in the fall session. Mr. Ouellet said: "That has high priority and we are going to proceed with it."

Then something happened, also back in the fall of 1981, and that was the then Minister of Commercial and Consumer Relations of this province (Mr. Walker) gave a speech. I quoted from this last year and I will apologise for quoting from it again. I hope that you have read it because I would like you to comment on it. That is hardly fair, so I would like you to express your point of view. This statement was given to the federal-provincial consumer ministers' conference by the then minister on September 3, 1981. If you have already read it, you will know that it opposed any attempt by the federal government to toughen the anti-combines legislation. It opposed it in the most vicious manner.

In this whole document, as I pointed out before, the then minister does not say one word about the need for competition—not a single solitary word. He goes so far as to say that if one industry owns 80 per cent of the market, so what? Maybe that is in the public interest. He says: "We fail to understand how a numerical computation of market share can conclude that a company is acting or is likely to act against the public interest." I presume he goes right up to 100 per cent. What do you have the Ontario Energy Board for?

He says the proposed policy defies the reality of the Canadian economy and he goes on to talk about the need for large corporations. He says: "We also object to the presupposition that just because a company is dominant in its industry, its market power is therefore detrimental to consumer interest. Large and dominant companies are increasingly sensitive to the dangers of antagonizing not only government but also their own suppliers and customers. It is simply contrary to good business practice in an environment where government, news media, consumer groups and analysts are ever-vigilant. We believe conscious parallelism should not be subject to the conspiracy provision."

What do you consider conscious parallelism? Is that not two companies or more raising prices at the same time, raising them in lockstep? I think that is what it means. We have this 13- or 14-page document by the Minister of Consumer and Commercial Relations for Ontario strenuously opposing the bill at Ottawa, and you know what has happened to it since then.

With respect to that same minister, I have another clipping here, dated February 19, 1982—this was after he became Minister of Industry and Trade—in which he reiterates all of those things he said in that brief: "As a new anti-combines legislation being contemplated



by Ottawa will impair Canada's ability to compete in the world, we do not see a compelling need for substantial changes in current combines legislation, nor do we consider a new competition policy an economic priority."

**3:50 p.m.**

The report goes on: "As the head of the restructured Ministry of Industry and Development, Walker reminded his business constituency of his reputation for getting government out of the hair of business.

"The tougher combines policy will make it difficult for Ontario industry which is in a period of transition, to carry out necessary adjustments, such as mergers and other arrangements," said Walker."

There was not one word again about the need for competition to protect the consumer.

Then we see the further moves by the chamber of commerce. I have an article here in which they pick up Mr. Walker's cudgels and clobber the federal government for proposing tougher combines legislation.

I have an editorial here from the Kitchener-Waterloo Record on July 14, 1982, headed, "Is Ottawa Serious?" They go on to state they do not think Ottawa can now be serious, after a year and a half has gone by of professing to bring in tougher anti-combines legislation.

I realize the economy is different; circumstances are different. The United States is much tougher—at least it was until Reagan was there—on the anti-combines legislation.

On August 26 the Toronto Sun carried an article from United Press International which was rather interesting. "The process of dismantling American Telephone and Telegraph Co. is under way, a move that will reshape the United States communications network and telephone service for every consumer. United States District Judge Harold Green Tuesday placed the stamp of approval on the agreement that opens the way for the AT and T to spin off its 22 local operating companies within 18 months. Long-distance rates are expected to remain stabler, or even drop, because of the competition from AT and T's new rivals, such as MCI, a long-distance phone lines competitor."

They realize there that you have to have one or the other. In the United States, even more than in Canada, they are committed to the free enterprise system, but they have gone that next step. They say that if we are going to have free enterprise, let us make no mistake about it. We in this party believe the majority of the economy must always remain in free enterprise.

If you are going to have a free enterprise system work, you have to have competition. Yet you have the former minister here fighting that very competition that protects the consumers. I ask you again, where do you stand on this? Will you promote those tougher competition laws of the federal government?

In your remarks this morning I think you said your primary responsibility is to help consumers help themselves. I believe those are about the exact words I wrote down. You also said you must constantly survey the market to see what consumer protection is needed. Accepting that at its face value, will you survey the competitive market to see if there is something that is needed there and follow up on it?

Your government's record on administered prices has not been much better. You personally have shown no desire or inclination to improve it. I want to remind you of what took place with the Consumers' Gas system. The award made to them in February 1982—although it was not a 32 per cent increase at that particular time, it was close to a 25 per cent increase—resulted in a 32 per cent increase in home-heating gas rates between February 1981 and February 1982. There is no doubt of that. I can supply you with the statement from Consumers' Gas itself, if you have any doubt about that. Those kinds of increases had a tremendous impact, not only on home heating but on the economy of this province.

I know the majority of that increase was a pass-through on taxes, on royalties and on wholesale prices, but there was an unprecedented increase allowed to the distributor, Consumers' Gas. They got about a 60 per cent markup. Previously they had been getting 20 and 25 per cent markups. The Ontario Energy Board approved of that massive \$77-million increase to Consumers' Gas alone. That did not include the other markup. We in the NDP appealed that. We thought it was reasonable to take it to the cabinet, which would take a look at the increase, especially because the state of the economy was getting worse from March on.

Five days before you brought in Bill 179, we were informed in writing—no announcement was made—that cabinet had upheld the ruling of the OEB. At the time that was made, you also had the submission to the new hearings on Consumers' Gas, in which they are asking for a further increase, which showed that they were predicting that for the fiscal year ending October 1, 1982, they would have a net increase in

profit, that is all interests and all costs, of something like 20 per cent.

You had all that information five days before you brought in the bill that limits the wages of public servants to five per cent. You upheld that increase, and there is nothing really effective in the bill to prevent them from getting a fairly substantial increase again this year.

Compare that to the public health nurses in Niagara, if you will. They had been out on strike to get some degree of equity. They are the lowest paid nurses in the province. They have been out on strike since May 3. I had asked and the member for St. Catharines (Mr. Bradley) had asked for some government intervention on their behalf, and the government said no, even though five or six years previously the Minister of Health of that day had said they should be brought up and he was willing to pay 100 per cent of the costs. Yet those nurses are going to have to accept a nine per cent increase; and whereas many of the other nurses had settled this year for 10, 11 or 12 per cent, and will now get five per cent.

Your government did not intervene five days before you brought in Bill 179, did it? No. It was prepared for that kind of injustice for the nurses, but when it came to the gas company, five days before it came to the decision that they should have that 32 per cent increase. It does not do much to impress upon the public—let alone impress upon us—that you are bringing in an even-handed restraint program.

I want to mention Bell Canada too. You do not have the direct control there that you have over Consumers' Gas and the other natural gas companies, but you are aware that last year their profits were 100 per cent over the previous year. For the first six months of this year, they were up again something like 20 per cent. Last year they were something like 25 per cent higher than they had ever been before. You know telephone rates are a major part of the cost to many businesses. Your ministry appeared at that hearing when these increases were allowed. However, Bell got practically all of what it had asked for.

**4 p.m.**

Granted the Canadian Radio-television and Telecommunications Commission made those decisions, but your government did not appeal that to the federal cabinet. You were content to go along with those increases that resulted in those kinds of profits. What bothers me more than that is that when the Restrictive Trade Practices Commission accused and levied charges

against Bell for having a combine existing with regard to the purchase of many of their products and so on, your government—not you, not even your ministry—went there to support Bell before the commission. Just let me read a report from the *Globe and Mail* of November 7, 1981, "Province Supporting Bell Group."

"D. W. Burtnick, legal counsel for Ontario, yesterday urged the Restrictive Trade Practices Commission in Ottawa to tell the world and Canada, once and for all, that we have a successful company and a successful structure here that should not be interfered with.

"The issue facing the commission this week is whether competitive bidding should be substituted for the status quo. These include Bell's refusal to purchase equipment from competitive manufacturers, refusal to provide telecommunications test lines to competitors and, until the Canadian Radio-television and Telecommunications Commission issued an interim decision against that, refused to allow attachment of customer-provided terminal equipment to its telephone network."

That is part of the issue you were involved in back in 1980 when the CRTC ordered that other competitive phones be permitted to be connected to theirs. Yet your government went down there on the side of Bell to fight for a continuation of restrictive trade practices—a monopoly. I don't know why you went. I presume Bell asked your government to go down there to take its side against competition, and so your government did. I suggest to you that that is pretty serious, and there is another dimension to that.

Is your government now taking any steps with regard to the present hearings that are going on, where Bell wants to get out of the regulatory authority, or get many of their companies out of that regulatory authority? It is being fought by the anti-combines branch of the federal government. There has been one case lost already which would automatically come under the anti-combines legislation. The federal government says it is going to consider bringing in legislation. Have you made any representation?

I have again all kinds of clippings here that say if Bell is permitted to pull a great bulk of its business out from under the control of the CRTC, the customers are going to be paying a lot more in their telephone rates. Have you looked into that? Have you made any representation to Ottawa on this so there will be competition?

Look at what competition did in just the one

area of phone extensions, for people purchasing their own phones. If you have not done anything and if you are really interested in consumer price protection, here is an area in which the Ontario government should become very deeply involved.

I am not sure what you have followed up with regard to the increase in the gasoline prices. It was raised in the House by the member for Kitchener that the refining companies had taken a 52 per cent increase for refining a litre of gasoline. It does really seem a little excessive in these times when we are restricting public servants' wages to five per cent, where we are in a deep economic problem with many people out of work, that they should increase their return on refining by 52 per cent. Perhaps you will have something to say about that.

Another area—and perhaps this is a bit more difficult—where no action has been taken up to this time, although I hope you are considering it, is on the matter of rent review which again has been mentioned by the member for Kitchener. We know that you passed legislation to make some changes, some of them improvements, back some two and a half years ago—

**Hon. Mr. Elgie:** In 1979.

**Mr. Swart:**—and it was found ultra vires by the federal government. To the best of my knowledge there has been no move by the government since then to patch up those loopholes.

I suppose Cadillac Fairview is the latest and crowning example of the clobbering that tenants are getting now and are going to get in an increasing degree during the next few months with regard to increases in rent. They are certainly not the only ones.

I handled a rent review case in Thorold—they only have one major apartment building there—where the requests were for increases of from 62 per cent to 95 per cent. It was a case of refinancing there. There had been a 9.5 per cent mortgage. The building had been badly managed, I must say, and there had been a change in ownership. In fact, it was more than that; there had been a foreclosure.

We were able to win that case, solely because the mortgage company which had foreclosed was considered, as I put forward, to have equity in the building. They were not financing it, they owned it, and there was no provision in the act for them to be able to pass through the cost of money when they owned the building.

So we won that; they only got a 12 per cent increase. Those rents could have gone up 50 or

60 per cent if we had not been able to find that loophole. If they sell that building, those rents will increase.

We think that because of this sort of widespread, developing situation you should be making some changes to the legislation to provide consumer protection. This 15 per cent equity perhaps should be increased on a sliding scale to 25 or 35 or 45, depending perhaps on how long they have owned it, and so on.

Again, if you are sincere about price protection for consumers some changes have to be made in the rent review legislation. I know it is not easy, I know there are two sides to the issue and I admit it, but I just want to say it is those people who are being hit with these kinds of increases who are being hurt, and being hurt desperately. In the economic situation we are in in this country, I think we have to take some measures to protect the people who are in that kind of situation.

So I say to you that your pattern to date on protecting consumers under administered prices is not very great. I could give more examples.

**Mr. Chairman:** Mr. Swart, while you are stopping to take a breath there, I might say we just have about an hour left. I think, if you want the minister to respond to the points you have raised—

**Mr. Swart:** This is my last page and that is all there is left.

**Mr. Chairman:** Is that right? We are coming along very nicely.

**Mr. Swart:** I think it is perhaps not unfair to say that I really haven't taken much longer than the others. I will be finished in 10 minutes.

What is needed as one factor in controlling inflation, and a major factor, and as an indication to the public that the government is really sincere about controlling inflation, which means controlling the rate of increase in prices, is for you to get involved to a much greater extent in two areas: one, in promoting stiff competition legislation so that competition will exist wherever possible; and where that doesn't exist, to get into some direct controlling of prices.

You will know that I have introduced a number of bills into the Legislature, one of which was An Act to provide for the Fair Pricing of Products and Services Sold to Consumers in Ontario, and to which section 3 of Bill 179 bears some remote relationship. It is rather remote, but at least it is a first step and we are going to endeavour to toughen up that section so it will,



in fact, conform to a much greater degree to my bill, which was Bill 153.

**4:10 p.m.**

We also need in this province a public advocate to fight on behalf of consumers at these hearings. How can you feel that you have a fair system, even at the Ontario Energy Board or any public board, when you have 20 people there on the side of Consumers' Gas or those who are advocating, who have a tremendous vested interest in and are promoting those increases, and you have no one, or one person, representing the other side? You are not going to get a fair decision.

I am not saying the boards themselves are trying to be unfair, but you are not going to get a fair decision. We need a public advocate as they have in New Jersey and as they have in a number of states in the United States.

I suggest to you that we need an automobile insurance rating board. I suggest to you we need much more than that. We need a public automobile insurance system like they have in the western provinces. I talked at some length to the director of the rating board in Alberta. They have a Conservative government, with a bit larger majority today than they had yesterday.

**Mr. Chairman:** You are looking for a round of applause for that, are you, Mr. Swart?

**Mr. Swart:** No, I would be more inclined to give a round of applause to the fact that the NDP doubled its representation and increased its vote from 15 per cent to 18 per cent, and really became the official opposition for the first time in Alberta.

They have this rating board, as two other provinces do. I think Alberta does the best job. I talked to their director. He only has a staff of two, or two and a half, on this. He estimates they have saved tens of millions of dollars for the motorists of Alberta by having an auto insurance rating board.

I know your concern about bureaucracy. I know that in your statement to us today you took pride in the fact that you had cut down the expenditures of your ministry, and I am not going to argue with that, but we have to have that balance. I suggest to you on balance we need an auto insurance rating board.

I have a private member's bill, An Act to amend the Milk Act. Regardless of whether you can argue successfully, and I am not sure that you can, that the eight cent per litre increase was not excessive this last time, the facts are that it is irresponsible not to look at that, with the

decrease in the number of dairies. We have to move to the point that if the farmer has to justify his increase, then so must the dairies and the supermarkets have to justify their increases.

I have introduced a bill, An Act to amend the Consumer Protection Act, with regard to price tags, which really means competition works to a better extent. The big supermarkets agreed to keep those tags on but marketing is changing and fewer and fewer of the consumer items bought have price tags on them.

I introduced a bill, An Act to provide for Class Actions. I know that does not come under your jurisdiction, but they have that in the United States and it gives to people a right to get redress they do not otherwise have if you do not have that class action legislation.

I just conclude by saying to you that I have dealt with only one issue. I dealt with only one issue because it seems to me that that is the area where the real void exists, that that is the area into which you, as minister, should move, into greater price protection through those two measures. I just say to you that if we have our way in Bill 179, it will be transformed into a fair prices commission act, not a wage restraint act, as it is now.

I think you will agree that I have made these proposals believing in what I say. You and I, I know, have somewhat different philosophies, not as much in contrast perhaps as with some other ministers or with the previous ministers in this ministry. I ask you to examine what I have said on this matter of assuring competition, this matter of providing an alternative, and perhaps come up with some proposals that will resolve some of the pricing problems we have now.

I'll just conclude by saying we know that this is not the whole answer to inflation. It's only one of the factors, but it's a factor that's been ignored up to this time and it's a factor apparently which Mr. Biddell thinks should be addressed if we're going to resolve this problem.

**Mr. Chairman:** Thank you, Mr. Swart.

Committee members, you have heard the minister and the two critics. They've raised several points for the minister to respond to and I wonder, Mr. Minister, if you are prepared to respond now.

**Hon. Mr. Elgie:** I am delighted to respond as the—what is it, the 11th minister in 10 years or the 10th minister in 11 years? I can't recall. You can clearly see I bring a wealth of experience on and deep knowledge of the issues.

I would like to say, first of all, I hope that our time doesn't give us a problem because I know

we have some items on a vote to consider, but a number of matters was raised that I do have to address. If some issues are overlooked the member for Kitchener (Mr. Breithaupt) said we could discuss them when we got to them in the debate on other matters, so you will forgive me if I don't refer to all issues.

Let me start off my remarks by assuring the member for Kitchener that I will never quote him in my future leaflets. He can count on that. May the record show that he will never be quoted. As for what you said, Mel, I don't know.

Seriously, I must say in all honesty that it's been a very interesting opening period. I think I can quite clearly say that both of you have spoken very honestly of your views and showed a balance. Although I may not agree with everything each of you has said, you would be surprised that I might not disagree with a lot of it. Nevertheless, I think the important thing is that we have all tried, at least to date, to talk about areas and to deal with them in ways that are pretty forthright. I appreciate that very much.

The member for Kitchener indicated that we were facing particular times in dealing with the issues of consumers and business. I think he got into an issue that we may well have to face some time in the near future and that is the issue of the mandate of this ministry. He is quite right, it is a diverse ministry with, I suggest, many mandates.

I think it's kind of interesting that you raise this point when as recently as last week the Minister of Finance of Quebec, at a meeting of the superintendents of insurance, indicated his intention to endeavour to sever the financial institutions from the Department of Consumer Affairs, Co-operatives and Financial Institutions in Quebec because he saw them as having a separate mandate from the other areas of the ministry. He felt they should be brought into their own; first to remove some conflicts and difficulties in balancing; and second, to give them the prominence those financial institutions deserve as part of a strategy of economic activity to enhance their role in the community.

We have been looking at various areas of the ministry that could be consolidated and that may well be an area we have to look at.

If you wanted my philosophy about the ministry I'm sure we could sit down some night and go over it, but briefly, I'm not one of those that think that government should have a total hands-off role in the economy. I think that our role is to intervene when necessary and not to

leave the impression that anyone should seriously object to that.

There's a lot of talk about deregulation for the sake of deregulation. When you come right down to it, when I talk to, for instance the people in the stock exchange and the investment business, they value the reputation they have that's enhanced because the Ontario Securities Commission is there. Their reputation internationally is enhanced by the fact that their activities are under that kind of supervision and regulation.

I think there are situations where deregulation does have a valuable role; for instance in the travel industry fund and other areas, and in Registered Insurance Brokers of Ontario, RIBO, where the insurance brokers were deregulated and run their own show. I think there are areas we can address, but I don't think one should just arbitrarily deregulate for the sake of deregulating.

I also think it's fundamental to my philosophy and to the government's philosophy to encourage self-reliance where possible. That's an important part of our makeup and what makes society work properly.

**4:20 p.m.**

It's true that the ministry has traditionally seen its role as providing information upon which consumers can make valid choices. I like to think that we've been doing a pretty good job of that. On the other hand, we have not been reticent to intervene in areas where it was felt that intervention was necessary.

The issue of consumer warranties, I agree with you, is an important one. Certainly we are following the experience of the warranty legislation in Quebec. It has its good points and its bad points.

I know that coming out of that meeting in Quebec last week with the insurance superintendents there was a recommendation with respect not to manufacturers' warranties but to dealers' warranties. That is another example of a prepaid service which may not be available at the time you need it. I hope those recommendations will form part of our consideration as we look at this whole issue of prepaid services and as we follow the experience of the warranty programs in Quebec.

The cost of auto insurance was raised by the member for Kitchener and by the member for Welland-Thorold (Mr. Swart). I'm sure we could dwell for hours on whether one should look at the type of system they have in other provinces like British Columbia, Saskatchewan or Manitoba and whether they work better than the free

market system we have here. We could argue about the value of a rating board like the one they have in Alberta. I could reel out all sorts of statistics to show you that of the various insurance companies that exist in Ontario, the best price here is probably the lowest price in Canada. On the other hand, you could say every other company had a higher one. We could go on with that little game for hours.

On average, I think it is fair to say that competition has worked in that industry in this province. The result has been the option for people to obtain insurance at a relatively low price and, in many cases and in many communities, depending upon the circumstances, to obtain a price which was probably the lowest in Canada.

I do have to quote some figures, because I think they are of some importance. When I look at what has happened to premiums in Ontario it is kind of interesting. This is from a memo prepared earlier this year. Take third-party liability, for example. In 1977, for those policies ending in June, the average third-party rate for a standard policy was \$158; in 1978 it was \$158; in 1980 it was \$164; and in 1981 it was \$170. No one would claim that those were excessive increases.

The same story is told in the collision coverage: 1977, \$106; 1978, \$96; 1979, \$94; 1980, \$98; and 1981, \$107. Again, I don't think anyone taking that four- or five-year period would say that there were incredible increases. Indeed, you would be surprised that they were so moderate.

I don't want to get into the game of playing numbers, but you and I both know there was a fairly significant increase in rates in Saskatchewan in 1980 or 1981, something like 35 per cent. That occurred because they were running a deficit and there had to be an infusion of public funds into it. The same thing happened in British Columbia.

What we're facing here is that we are now catching up with that increase in rates because of the shortfalls. Other provinces, particularly the ones you've referred to, caught up two or three years ago.

I think it's nice to be able to take a year in isolation and say it is bad, but if you look backwards retrospectively, overall I think you will agree that the rate increases in this province over the past four or five years have been remarkably modest. I don't need to repeat for you the amount of investment income that had to be infused into the claims payments in this

province last year. I think it was close to \$900 million.

I can't agree with you that we need feel ashamed of the insurance program that is available to people in this province. If you really do believe that competition is that important, and I think you mean it, then I don't think you would really say that competition isn't working in the insurance industry. I submit that that's a pretty clear-cut example of competition in action and it has produced surprisingly low rates for people in this province.

The issue of rent review was raised by both critics. I know it's a difficult issue and it has always been a difficult issue. It's difficult to find a balance and impossible for me, as it is for both of you, not to feel the honest anxiety and the threat the tenants feel when they are faced with massive increases in rent. I think you deserve a lot of credit for honestly saying that, by and large, the majority of those increases are due to interest rates, and we all know that, whether it be on refinancing or whether it be on transfer of property.

I hope I have made it very clear that I have always looked on the rent review program as one that was subject to review. I am prepared to continue to do that and to address issues that need to be addressed. The rent review process and the housing problems continue to change and the program has to change and adapt as the situation changes. Having said that, let's also understand that the ancillary issue, which is equally important, is the availability of affordable accommodation. We're looking at people now who don't have many choices because of the low vacancy rates.

Groups such as the Federation of Metro Tenants' Associations and other groups quite honestly say that if vacancy rates are up and competition works a little better, there are some options. In those situations the rent review program probably doesn't play the same necessary role as it does when there aren't those options.

There are special situations for the elderly. We recognize that, and they have some degree of subsidy now in the tax credit rebate program and there is senior citizens' housing for those who wish to move into it. We all know the older people get and the older we get there is a certain sense of importance to stability and security and living where you've always lived wherever that is possible. That is what the property tax credit has helped with many people. That is a thing we'll have to be looking at in another ministry as



well. It's not just a one-pronged problem. It has a variety of aspects.

As you honestly pointed out, it's a difficult balance to achieve. I was, however, thrilled to read in the paper that you called that award of 12 per cent a fine judgement. "A sound decision," I think was the phrase you used. It shows, as you said today, that you recognize there are certain costs that have to be passed through.

I think I mentioned pretty well my preliminary feelings about the building code. As the member for Kitchener mentioned, that is a matter we can address when we get to those items in the estimates.

The issue of plain-language legislation is one that has been on many of minds. I know that in the Polarix project, the project to reform the land registry system in this province, there have been serious efforts made. I think you will see when it finally comes on stream that good results are being obtained in achieving plain-language legislation. I understand from my deputy that similar attempts were made to make the residential tenancies legislation plain language.

You know and I know, as lawyers, that there is a certain problem we all face in that we would all like to write plain-language legislation, but we all know there are well-understood legal terms that have well-accepted and well-tried meanings that have been confirmed in the courts. There is a certain hazard in deviating from that language because you introduce an element of uncertainty which may not be to the benefit of the consumer or the person who is selling whatever the property is. Having said that, I think wherever possible we should indeed strive to produce documents in plain language.

**4:30 p.m.**

The difficulties that many see with the censorship board were pretty well summed up by you. My views are very similar to yours. I find the whole issue of child pornography and the use of children in states of nudity for entertainment to be rather offensive. I don't think it does much for society. If anything, it may encourage ways of life that I don't find acceptable and I'm sure you don't. No matter what I read, when people write against censorship, they always seem to say, "But that sort of thing needs to be cut."

I think there is a dichotomy out there even in those who oppose censorship. Certainly I noticed that when I read Charles Templeton's article on censorship. The headline was that he is against censorship, but later on in the article he is itemizing the things that should be cut. So it is a

problem even the ardent supporters of a free program have difficulty with.

Lifestyle advertising does present some problems. The Liquor Control Board of Ontario does endeavour to limit certain aspects of lifestyle advertising and, as you quite properly said, the majority of that comes under the federal government.

The issue of interest rates, the use of credit cards and the cost of credit are certainly difficult problems. There are choices that people have, whether to use a card or not. All of that may become unnecessary in the era of electronic funds transfer because it may come out of your bank account right away.

There are some odd situations going on. You know as well as I do that there is some cross-subsidization going on in the credit card business. People who pay their bills quickly pay nothing, but people who pay their bills slowly pay relatively high interest rates.

The industry, and perhaps in consultation with us, is going to have to look at that issue, and it's not going to be an issue that is going to be a happy one for those who have consistently paid their bills within the 21-day period, or whatever the period is now, and avoided the payment of any interest because they were prompt in payment.

The use of credit cards for a variety of purposes has been brought to my attention. Sometimes credit cards are being used as deposit for a number of things. Those are issues we have to explore and we have had some of our staff looking at issues like that.

The home warranty plan is a well-received plan, but I acknowledge that there have been some issues and some concerns about it. As I look over the material on the home warranties program, I think you can break down the complaints into three areas. The first is with the process; the second with the definition of a major defect; and the third with the issue of completion of incomplete work.

A particular issue referring to the latter point is presently before the courts. As you know, the home warranty plan people have felt that the regulations, in spite of the wording of that statute, excluded the completion of incomplete buildings. As I recall the Stathakis case, I believe it is, starts in the Supreme Court tomorrow—is that correct?—November 4. It is on that very issue. One would hope that matter will be resolved. We are also in the process of reviewing that legislation.

On the issue of business practices violations, the TV repair issue, I guess it's difficult to keep a

handle on every issue, but as soon as we became aware of it we investigated it as well, following the Toronto Star exposé. As a result of that, several cease and desist orders were issued.

That is the kind of thing we do have to keep looking into. As you know, we also carry out frequent "ghosting" of car repairs, for example, to make certain that the estimates given and repairs given are legitimate ones. To date I have to tell you that we've been pretty pleased with the fact that, by and large, the majority of car dealers and repair shops are providing good, legitimate service. The ghosting technique which we have pioneered in this country has, I think, kept a good monitor on that area. It is a principle we may well have to expand to other areas.

There are a number of issues which confront me. It would be difficult to put them in any priority. The issue of prepaid services is an issue that I have indicated we have to be looking at very seriously; not just the health clubs that you referred to, but dance studios. Mr. Johnson, in his riding last year had the case of the Havsumfun Park trailer park where people prepaid rent on leases for five, 10 or 21 years. That is the same issue as prepaying for a service without acquiring title to anything. A number of years go by, circumstances change, and one is left with nothing.

Again, that is a difficult area to solve, but we are looking at new approaches now. We might be able to introduce something to offer some protection for the whole range of prepaid services that offer a threat to consumers.

I could go on for quite a long time about franchise laws and the various approaches to them. Suffice it to say that we are looking at it seriously. We are reviewing the effectiveness of the various approaches that have been taken, which boil down to two: the disclosure approach with some variations on it; or a regulatory approach along the securities commission line.

They are two quite different approaches. It is important for us, from the taxpayers' point of view, to see if one has significant advantages over the other, since there is quite a significant cost difference between the two in terms of our own expenditure and public money.

One of the things, in the area of disclosure documents, would be an endorsement of the whole thing: the certification of the product, to which we attach some legal liability and some rights to sue with or without going through the normal common law process. That is one of the things we could look at in the disclosure area.

We could also look at the cooling-off period, and we can also look at some standards for contract language for particular situations. There are many areas we can look at from the disclosure aspect, and some variations under the regulatory aspect.

We are trying to determine how effective the various approaches have been throughout the province. The province is in touch with some states in the United States which have implemented these programs.

In referring to insurance premiums, the insurance industry do file their rates with our superintendent of insurance, and in that sense I suppose he keeps a general overview. Specific monitoring occurs on specific issues. It may be that we should be playing a more extensive monitoring role in that area, and I am prepared to look at that.

I am pleased to hear that you support and that your previous committee supported the moves towards changes in the premium rating system as it relates to age, sex and marital status. It may be folklore, but it was folklore in the past that applied to groups. If you were married, you were supposed to be a better risk. If you were a woman, you were supposed to be a better risk. If you were a little older, you were supposed to be a better risk.

I think it is time to cut through the folklore and look at two issues: one, the individual's driving record; and second, realize that much of the old folklore was not really related to whether you were married or single.

I suggest to you that the reason in those other times that most married women had a lower accident rate was that they didn't drive as far. I submit that we will see the number of miles driven per year to be the equivalent of the lower rate, as applied to someone married many years ago.

**Mr. Breithaupt:** Yes, that becomes one of the factors, the total number of miles driven, as well the driving record and the occupation.

**Hon. Mr. Elgie:** I think we can find criteria in which we can reach similar but more appropriate ways of assessing people on an individual basis.

**4:40 p.m.**

I haven't approached the industry in a confrontational stance, and they haven't reacted in a confrontational stance. I tried to stress to them that the Supreme Court and other legislation such as the Human Rights Code is looking at how something impacts on an individual, not

how it impacts on a class. They are going to have to look at these issues from the point of view of the individual.

We have been delighted with the kind of response we have received, and I think they are taking it pretty seriously now. I think they have taken it quite seriously in the four years since our reports in that area were available. It does seem to be building to a consensus of practical ways in which to deal with this new approach. I think it is coming and I am pleased that we can achieve it in a co-operative way.

The Motor Vehicle Accident Claims Amendment Act was prompted by three things: Cardinal Insurance Co., Pitts Insurance Co. and one other which I can't think of. It was those three failures which prompted me to introduce some intermediate steps to offer protection to those people who no longer have the insurance they contracted for. Although it may be in the long run that they are getting roughly 50 to 80 per cent of the coverage, that will be many years down the road and there will be some people who will have had to suffer significant disadvantages during that long period of waiting.

**Mr. McKessock:** Are you saying that the ones that didn't claim under Pitts will now be able to under the new bill?

**Hon. Mr. Elgie:** Yes.

**Mr. McKessock:** Also, what do you mean by saying it will be many years down the road?

**Hon. Mr. Elgie:** Well, by the time the bankruptcy is settled and by the time it is determined what the payout will be on the dollar, it could be anywhere from three to 10 years down the road.

What we have been interested in is that the present Motor Vehicle Accident Claims Amendment Act applied anyway. Anyone who wanted to bring an action against us or against the fund could have. The main problem was that the fund would have then been under obligation to take away their licence, to issue writs of execution, and to really put them in jeopardy, even though they had acted responsibly and had taken out insurance.

**Mr. Breithaupt:** Also they would be constrained by the policy limits too.

**Hon. Mr. Elgie:** That's right, the fund would still only be active up to the level of the policy limits, and then there will be a proportional share of any amount that comes eventually from the bankruptcy.

I do not look at this as an ultimate end we should be looking at. I think you have put it quite well. When people act responsibly and

purchase insurance in order to protect themselves against some unknown future hazard, I think they contract themselves into being certain that it is there when the occasion occurs that they have protected themselves against.

That is the kind of discussion I have been having with the insurance industry—insurance on the broad range, looking at the need to ensure that responsible people who purchase insurance somehow have to be assured that it is going to be there when they need it.

I was pleased to hear again last week from that conference in Quebec that the federal government is going to tighten up on its inspection process. To date, the companies that have collapsed have been federal companies.

It can happen to anyone, but, cross our fingers, we've been able to keep in pretty close touch with the companies and they—

**Mr. Breithaupt:** Of course, one must be clear that the effect of licensing within Ontario and the traditional presumption that the federal authorities would take care of the solvency details has been a pattern of operation of our superintendent of insurance.

**Hon. Mr. Elgie:** Quite right.

**Mr. Breithaupt:** We have ordinarily relied on that area without double checking and it seemed to be quite a reasonable thing to avoid duplication of effort. So, we certainly had an involvement, however you—

**Hon. Mr. Elgie:** I am not trying to escape that.

**Mr. Breithaupt:** Oh, no.

**Hon. Mr. Elgie:** I think the important thing was the announcement that they made, and also announcements that they are in the midst in discussions with the industry on a broad range of some guarantee of the availability of the insurance when the occasion for which you have insured yourself for protection arises. I see some good things developing out of that.

Although my good friend from Welland-Thorold has some criticisms of the bill I do not see this as an end stage. I see this as an intermediate step to protect people from what would have otherwise flowed from the existing act. I think that they would have lost their licence and we would have had executions. They would have been in trouble. I felt they did not deserve that trouble and that we should step in.

**Mr. Swart:** I don't want to interrupt your reply, but I commend you for taking that stand. That is the most important stand, but it seems to me you can take two steps at the same time.



**Hon. Mr. Elgie:** The issue of electronic funds transfer and the new electronic era in its entirety will need a lot of consideration in terms of security and privacy. I agree with that.

As you know, we had a MacLaren study done about two years ago; I obtained copies of the royal commission from the United Kingdom on this and the staff had other information on it. That has all been gathered together, and an interministerial committee of involved ministries has now been set up through our policy field so we can prepare whatever needs to be prepared for recommendation to cabinet for this new electronic era with the challenges and the problems it is going to present.

I thought one of the fascinating things you said—and you'll forgive me if I wander for a moment—was that there are many changes taking place today that may tend to make us all less human. That is what you are really saying about the electronic era. I was just sitting here thinking to myself how interesting that is. If you walk down the street, what do you see? You see the front porches being taken down and the people moving into the backyards. I think that dehumanizes the street to a certain extent.

What did we hear about in 1971 when Mr. Justice Hartt came out with his recommendation that everyone thought was crazy? He talked about the policeman walking up and down the street so he got to know the neighbourhood. It was pooh-poohed. Remember that? What did the report three months ago say they should be doing? They should be getting out of their cars and walking down the streets again to get to know the people on the street.

I think there are a lot of things happening in life. The bank clerk doesn't play the same role and the bank doesn't play the same financial advisory role—

**Mr. Breithaupt:** Or the bank manager in that traditional relationship.

**Hon. Mr. Elgie:** That is right; that has all changed. A lot of things are happening in life that change the humanity of life, and we have to address ourselves to those areas. I am not certain how one does that or what the approach to it is. I do not think it is a very pleasant picture. It isolates people from their fellow man and does not allow us to bring out the best or see the best in others.

The pension bill I have before the House now does not relate directly to the Haley report. It relates to the guarantee fund and an effort to give women access to pension funds equivalent to what they now have in the Family Law

Reform Act, but which they do not have in the Divorce Act. The Haley report and the select committee report are matters that we have had under review. I know discussions have been taking place with the Treasurer (Mr. F. S. Miller) on the eventual outcome of that. I cannot give you any information on the status of it at present, however.

On duty free liquor shops, I have not yet met with Mr. Rompkey, not because I do not want to, but because there has not been a time when we could get together. We will meet. As you know, and as I told your colleague from Windsor, in 1975 Mr. Handleman did have an agreement with them. The agreement was that the LCBO would run those at the border points, but it was agreed that it wasn't feasible or economical and that there could be other arrangements agreed upon.

However, that subsequently died and never came to be. Now there is a different position being taken by the federal government. I am prepared to have discussions with them, but I am also of the view that where it is reasonable to have the LCBO operating it, they should show some flexibility as well. If there are other areas where it is not as economically feasible, I am prepared to be flexible. I am prepared to have those discussions.

You indicated we could discuss the Ontario Athletic Commission later, and I appreciate that. You know that Reuben Baetz has set up a commission now to study amateur boxing; and there is also the group looking into discrimination against women in amateur sports in which Cindy Nicholas and some others whom I can't recall are involved. I think that is timely and important.

There are a variety of other consumer price issues which you raised—gasoline price wars and the impact on small communities, for instance. Fortunately, they do not last too long, but I know that while they are on they cause great economic difficulty for those communities.

**4:50 p.m.**

The travel fund has been a great benefit to us. However, we have seen some problems with it. For instance, the fund is not able to step in and require that a receiver be appointed. The act needs to be changed to allow them to do that. To date we have been able to get voluntary receivership. We can foresee a situation where it won't be that easy. There are other things that need to be looked at to improve the efficiency and the effectiveness of the fund, but fortunately to date it has been a good thing and has

been a boon to those who otherwise would have been in trouble economically because of the loss.

With regard to the Central Credit Union of Ontario and its liquidity pool, again you have indicated we could discuss that later and I think it might be important to do so on the financial institutions. The central credit union is having a major meeting this weekend on this whole issue and at that time I will be able to report on that as well to you.

The nonprofit and charitable institution charter: those institutions were advised in January that they were in default of filing and then received the follow-up notice in March, indicating that in 180 days their charters would be forfeited. When the list was given to me in early September, indicating their charters would be forfeited as of September 8, I was frankly and honestly disturbed at the number and the types of organizations listed there. It involved chambers of commerce, rotary clubs, hospitals, just an incredible array of people. I could not believe they did not take this seriously.

I had two options. One was to cancel the cancellation. I was advised that to do that there would have to be major reprogramming of the computer at a significant cost. The second was to get an order in council passed, allowing me to revive them without cost if they filed their documents by November 1. That was approved and everybody was advised of that. They were given an extra two months and a personal letter from me advising them of this and asking them to look at it seriously.

**Mr. Breithaupt:** As a matter of general interest, what sort of result have you had?

**Hon. Mr. Elgie:** We will have to find that out when the people from that portion of the ministry are here. I do not know the final results of that. Do you, Mr. Crosbie?

**Mr. Crosbie:** Not for this year, not the final. It is interesting that three years ago when we first went through this exercise, when it came down to the wire, about 3,000 had not renewed. After the final notice of forfeiture went out, only about 300 ever did renew. We suspected a lot of them used it as a simple way of cancelling their charter.

**Mr. Breithaupt:** Yes. They may not be continuing with a variety of projects or the building may be up. They would not be gathering more funds to deal with something so there would be no requirement to maintain it.

**Mr. McKessock:** Why does this happen? Say the same thing happens this year again or every three years.

**Hon. Mr. Elgie:** Every three years nonprofit corporations have to file information about their board of directors and so forth so that anyone who wants to make any inquiries about them can obtain the information.

**Mr. McKessock:** What is the problem? Do they forget between the three-year period? Do they get a notice in advance?

**Hon. Mr. Elgie:** They get a notice. In this case they had notice in January. Those who hadn't responded by March received a second notice saying the charter would be cancelled as of September 8. By then there was something like 2,000 who hadn't replied. It was just impossible for me to believe that 80 per cent of them meant to let their charters lapse, so I took it upon myself to write them a personal letter and to allow them to revive it without fee by November 1. We will see what happens by then.

There are many other issues you raised that we can discuss as we reach those items in the ministry's estimates.

I was delighted with the congratulations the member for Welland-Thorold extended to me, but I tell him with all humility that I am quite prepared to carry the chains of being a Progressive Conservative. It doesn't trouble me at all. I think this represents the best balance that can be achieved in society.

**Mr. Swart:** There are martyrs all over the place.

**Hon. Mr. Elgie:** I am like Felix the cat and I think that hemlock, whether it is served from the left or the extreme right, will still kill you. I like to be in that progressive group that is out there trying to find answers to problems and not worrying too much about some issues that trouble other people.

There are a number of items—pricing, for example—that you and I could debate for years. I know the prices of milk and gas and so forth fluctuate from time to time. If you grab them at time X, it is high; if you grab them three or four months later, it's low.

Occasionally you take trips to Buffalo, and perennially it is 11 per cent or so lower in Buffalo than it is in Toronto, but strangely enough it is the same in Detroit as it is in Toronto and it is 11 per cent lower in Buffalo than it is in Detroit. There are a variety of circumstances in Buffalo that seem to make it a very popular place to have low prices. Mind

you, I hear that most of the chain of stores you used to go to are out of business now.

**Mr. Swart:** Let me just correct something. Number one, I don't go to Buffalo.

**Hon. Mr. Elgie:** Where is it you go to?

**Mr. Swart:** Niagara Falls, New York.

**Hon. Mr. Elgie:** The Buffalo area.

**Mr. Swart:** Number two, none of them are out of business.

**Hon. Mr. Elgie:** Anyway, milk prices did go up. Not all of the companies passed on more than the increased cost from the marketing board. On the weekend I saw several stores with three bags of milk for \$1.89. The staff went out today and found the same thing. There is milk at A and P for \$1.89.

So there is a degree of competition that continues to take place and eventually drags other prices down. I think you are seeing competition work there. I know you think the number of milk companies is being reduced too drastically but there are still—how many companies?

**Mr. Swart:** About 30 that actually process.

**Hon. Mr. Elgie:** That is a fair number to provide competition. The results in the marketplace seem to indicate that the distributors and the stores can respond to it by offering competitive prices which tend to keep it down. Indeed, \$1.89, as I recall, is what it was last year. I know you don't like me to say this, but the overall impact of food prices on the consumer price index has to astound everybody in that from September to September they only went up about 5.5 per cent.

**Mr. Swart:** Farmers have taken the brunt of that.

**Hon. Mr. Elgie:** It is going to go up a little more this month, you and I know that, because we are moving out of our domestic products and into more imported products.

**Mr. Swart:** It is not the middleman primarily, it is the farmers—

**Mr. McKessock:** We still have the cheapest milk in the world.

**Hon. Mr. Elgie:** And we still have the cheapest food in the world.

**Mr. Breithaupt:** The differences in supply management have to be considered at least in trying to come to grips with the theme.

**Hon. Mr. Elgie:** In view of time, may I just confine myself, if I may. I wish I had time to talk about two things: one, your views—

**The Acting Chairman:** Do you want to go until 5:10 p.m.?

**Hon. Mr. Elgie:** That would be fine. May I just briefly address two issues—and I apologize—maybe three because I want you to note these. I won't read it all but I would like to read a part of the letter that went to the Canadian Radio-television and Telecommunications Commission from the Minister of Transportation and Communications (Mr. Snow) with respect to the Bell reorganization. The first part of the letter deals with some things that may be seen as advantages, but the final part of the letter says:

"In spite of these benefits, Ontario has a number of concerns relating to the treatment of the subscribers under the reorganization proposal. Firstly, I am concerned about the proposed transfer of \$560 million from Bell Canada to Bell Canada Enterprises."

The letter goes on and on and finally says: "It is the view of the government of Ontario that the CRTC must satisfy itself that the proposed reorganization would not interfere with the commission's ability to regulate effectively the provision of monopoly telephone services. It may be necessary, therefore, to delineate more specifically those functions which are fully competitive and those which are less competitive and should be subject to regulation."

"It is the view of Ontario that this task of delineation is part of the mandate of the CRTC and the function lies more appropriately with the regulatory agency than with the regulated enterprise through corporate reorganization."

In essence, it recommended that the commission have a hearing on the issue. So there has been a communication to the CRTC from the minister which we had some input into.

**Mr. Swart:** As you know the next step is to intervene now that they have awarded the right to divide their companies.

**Hon. Mr. Elgie:** The federal government has indicated it is going to look at it.

**Mr. Swart:** It is going to appeal, and that is what I am really requesting now. Are you going to get involved in that aspect of it?

**Hon. Mr. Elgie:** We have indicated to them that there should be a CRTC hearing and I suspect that is where they are going to be heading.

You and I can argue all day about what causes inflation. Take Jack Biddell. I know Jack Biddell and his views and I know he feels prices have to be regulated in Canada. You read it, I didn't. He says that if we are going to do anything in the



private sector he sees that as a Canadian program, but he writes of the need for income and price controls everywhere he goes. I do not think you should presume that he sees prices as the only cause of inflation. He thinks there is going to have to be a two-pronged approach and it is always against inflation because he knows—I submit to you as most of them know—that inflation is the key cause of high interest rates.

**5 p.m.**

The Premier (Mr. Davis) of this province and other Premiers have called for a reduction of interest rates, but having called for that, I don't think anybody really believes one can do that without having a lower inflation rate. We also cannot react independently of the situation to the south of us because we would have such massive flows of money out of the country. We are almost in the position of being in an induced economic recession because of the interest rate policies of other nations.

We can only tackle problems that are here and that we can control. The one problem we can tackle is inflation. If it is to be tackled on a national basis, it has to be a national program. To isolate Ontario and deal with the private sector in the same way we are dealing with the public sector would—and I think you would agree—put us in a very unusual position vis-à-vis employess and vis-à-vis businesses throughout the country. We would be in a very unusual position and I think we might well see some difficulties in terms of business expansion and continued employment. For that reason, the government feels that if there is going to be a program, it has to be a national one.

On the issue of competition policy, I think the previous minister, to be fair, felt there was such an obsession with share of market and with asset size and not enough emphasis on corporate conduct, that he found the competition proposals to be unacceptable to a very odd country in terms of its geographical and population distributions, a country that needs special considerations if it is to compete in the international marketplace as well as internally.

He did not think the focus of the proposal was appropriate to the problems presented to this country. In terms of countries like Japan with big conglomerates coming into the marketplace and being very effective, I think he honestly felt that consideration of the need for Canada to compete in the same way was not part of the considerations of the federal ministry that made those proposals.

I think it is difficult to say exactly what this

government will do in the absence of proposals. As you well know, the Premier has already said very clearly what his view is. The Premier stated at the Premiers' conference in Halifax this year that the federal proposals will needlessly add to the uncertainty facing investors and he proposed that the changes be postponed. If and when competition legislation is introduced by the federal government, I am prepared to take part in a debate on the specifics of the legislation in order to produce what we deem to be acceptable and appropriate to the times in this country.

Let me see what other points I might cover in the next few moments. I was delighted to hear you say we need to look at the socialist countries because we are not doing well in the western world. Well, I would like to look at France. What has it done? It has just imposed a one-year wage and price freeze. Do you agree with that? Do you think it is a good move for that country to move into wage and price freezes? What do you think about Denmark with its massive cuts in expenditure and with its move into control of incomes and so forth?

There are many countries, regardless of the ideological foundations upon which they rest, which are having problems. Interestingly enough, they are all, albeit through different approaches, coming to common ways to try to tackle the problems. I do not think your reference to looking to socialist countries for salvation could stand up if we look at France—

**Mr. Swart:** These are democratic socialists. You know very well I was not referring to—

**Hon. Mr. Elgie:** —Denmark and Germany. Here we are moving away all the time from that controlled program that you think will bring heaven to all.

I do not see the wage and price restraint program, be it our public service program or be it a broader public and private sector program on a national basis, as the sole answer to economic recovery. I understand that, but it is important to enable us to get interest rates down and to get some of the ordinary activities of the marketplace back and going again.

I do not know if everybody or many in my own party or other parties would agree, but I happen to think the time has come in our lives to get on with the business of more co-operative endeavours in society among labour, government and management. Unless we devise ways to achieve those goals, we are going to continue to have endemic inflationary problems.

That is one area I feel very strongly about,

because although I disagree with much of what you have said in this area, I do agree with you that the fight against inflation can't be the only approach we take in order to solve our longer-range economic problems.

Mr. Chairman, if I may leave it at that and then comment from time to time on other matters that have been raised by both members, if that meets with their approval, then we can get on with the votes.

**The Acting Chairman:** We agreed to adjourn at 5:10 p.m. I would like to make just one comment. The minister mentioned co-operation and I would like to compliment the committee for the degree of co-operation we have had today. If we do more of this, we can achieve more positive results in this Legislature and I compliment both parties for their co-operation.

Vote 1501 agreed to.

**Mr. Breithaupt:** Since we are dealing with the Residential Tenancy Commission on November 24, it would be at least prudent for the clerk to have larger quarters available—not that I am suggesting I am going to be inviting anyone—in case there is public interest in the whole matter

of the rent review and the other items we will be discussing.

It would be prudent to at least have a larger room available and that would avoid some of the difficulty the other committee had in dealing with Bill 179 when they lost time moving back and forth in a general confused way.

**The Acting Chairman:** Mr. Breithaupt, may I suggest the clerk contact the House leaders and they can discuss it at their meeting tomorrow. Mr. Breithaupt and Mr. Swart can do the same thing so we will all be on side on it. Is that agreeable to the committee?

**Mr. Swart:** I just wanted to say one thing. I do not want to leave any false impression about some of your comments, particularly about those socialist democracies. As you would expect, I disagreed but I didn't reply because you were kind enough not to interrupt when I was speaking and I didn't want to interrupt when you were making your point. I just want to say that at some point further during the estimates, I probably will be replying to your point.

The committee adjourned at 5:08 p.m.

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- Elgie, Hon. R. G., Minister of Consumer and Commercial Relations (York East PC)
- Johnson, J. M. (Wellington-Dufferin-Peel PC)
- McKessock, R. (Grey L)
- Swart, M. L. (Welland-Thorold NDP)
- From the Ministry of Consumer and Commercial Relations:**
- Crosbie, D. A., Deputy Minister



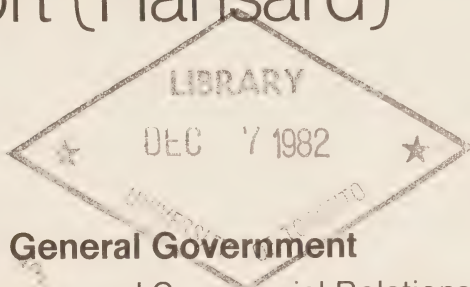




No. G-3

# Legislature of Ontario Debates

## Official Report (Hansard)



### **Standing Committee on General Government**

Estimates, Ministry of Consumer and Commercial Relations

**Second Session, Thirty-Second Parliament**

Wednesday, November 17, 1982

Morning Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, November 17, 1982

The committee met at 9:40 a.m. in committee room 1.

After other business:

10 a.m.

### ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1508, Residential Tenancy Commission:

**Mr. Chairman:** I think we are ready to proceed with estimates of the Ministry of Consumer and Commercial Relations.

First of all, I think everyone has been handed a letter from Mr. P. C. Williams, chief tenancy commissioner, in that he is not going to be able to be with us all day. He has an appointment with the knife later on today, I understand. I think his letter has been handed out. So he will be here for this morning. Therefore, any questions that should be directed specifically to him should be asked in the early stages of the going.

**Hon. Mr. Elgie:** Mr. Chairman, I would just indicate that the knife is not an unkindly knife; it is the knife of a gentle surgeon—and not the one from York East either.

**Mr. Peterson:** Mr. Chairman, I am glad to be here today and I am glad it just happened to coincide roughly with the discussion of the past two or three weeks. I have a number of questions for the minister. I should perhaps put into context some of my concerns so he will understand the angle I want to discuss today and what has transpired in the past three weeks.

I am also aware that on a number of questions I would like to ask, the response probably will be, "It is being studied." Usually when the government is under some sort of pressure it announces a committee hearing, an investigation, a royal commission or whatever.

Today it appears we have four inquiries going on which come out of this particular set of transactions. As I understand it, there is the Thom commission into the whole process of rent review and any new laws we may want to apply to the situation. Then there is the Morrison inquiry into section 152. Will that be public? Is it your intention to make that public?

**Hon. Mr. Elgie:** I have no reservations about tabling the document and making it public. I would have to read it first and make certain there are no confidentiality rules involved, but as a general principle I have already said I have no problem in making that public.

**Mr. Peterson:** The third inquiry or study, as I understand it, is for the Ministry of Municipal Affairs and Housing to assess the entire housing question in Ontario. The fourth one is by the Attorney General (Mr. McMurtry) on the suggestions of Alderman John Sewell yesterday that there may have been some violation in the filing of the affidavits with respect to the Bulk Sales Act. Was that a formal inquiry from you to the Attorney General?

**Hon. Mr. Elgie:** That is not a study; it is simply an internal review of the issue of the Bulk Sales Act by the Attorney General. As I understand the act, and it has been a long time, it revolves around whether the creditors have the right to do anything with respect to the apparent failure to obtain an exemption by some of the parties.

**Mr. Peterson:** That is my understanding too, but there is another aspect to this deal. As I understand it, in two days, between November 1 and November 3, affidavits were filed, both pertaining to the same transaction, one valued at \$270 million and another at \$500 million, with the same vendor mentioned, both attested to and both sworn documents. So apart from any potential violation of the Bulk Sales Act, are you going to look into the juxtaposition of those two documents three days apart and try to determine whether they are both accurate?

**Hon. Mr. Elgie:** Those are matters the Attorney General will be looking at. The issue of the value of the properties will be relevant to the examination being carried out by Touche Ross with respect to the mortgaging requirements under the Loan and Trust Corporations Act.

**Mr. Peterson:** As I said, I suspect the response to a great number of the questions I would like to ask will be, "We are looking into it." I want to discuss today what I consider the major part of this deal that you are not looking into, but a part of the deal of which you were personally apprised of some information.



I put this in context. The regulatory capacity or your capacity to administer a number of the acts that you administer is very much under question. A lot of this happened before your tenure as minister. Let us not forget that this is the same ministry that presided over Argosy, Astra, Co-Op Insurance and a variety of other very serious problems in this province. It speaks to someone or some groups of people in your ministry, in our judgement at least, not being as competent as possibly they should have been in the circumstances.

We want to look into all aspects of the particular series of transactions between Cadillac Fairview, Greymac, Kilderkin, the numbered companies and anyone else who participated therein. You have not addressed those issues. Indeed, you appear to give passive legitimization to those deals by not looking into them. You kept saying, "There is nothing we can do; I have no power." The fact now is that those deals appear to be within the law. Without an investigation and without knowing all the facts, in our opinion that was a very serious error on your part. The only way we can investigate those from our point of view is through questioning you in committee.

**10:00 a.m.**

We are concerned about the foreign ownership aspect, there is no question about that. There is no suggestion—and I hope you will change my mind—that the Ministry of Municipal Affairs and Housing inquiry into the entire housing situation and rental stock in the province will deal with that question of foreign ownership.

There is a suggestion that a great number of deals across the province, in Kitchener, London and a variety of other places, are moving into foreign hands. It is suggested that there is going to be a major influx of foreign money into Ontario, buying up these apartment buildings. I believe we should know the facts in those situations. Are you asking the ministry to look into those questions? Are you doing an inventory of the ownership question?

**Hon. Mr. Elgie:** If I could respond to the several remarks you have made, I think what I said is that I know of no illegality, nor has anyone been accused of any illegality, in the transactions that took place. I suspect that in a number of areas of the economy, similar transactions take place frequently in terms of middlemen having a product they have acquired and then reselling it.

Surely you do not believe, and I do not think members believe, that government in the absence of any evidence of wrongdoing should be carrying out any public inquiry by way of a witchhunt.

**Mr. Peterson:** Why are you bringing in—

**Hon. Mr. Elgie:** Let me finish. It seems that the fall of the year is my time. I think it is very ironic that a year ago we had the human rights bill before this Legislature. What were the accusations then? The accusations from members of opposition parties were that I was proposing to allow investigators without warrant—in other words, without reasonable and probable cause—to enter into premises and look at books.

Now we seem to have done what the leader of the third party has called a flip-flop, but not on my part, in that we are now saying: "Let us go in and look anyway. Let us not bother about whether there is reasonable and probable cause." I hope the province has not come to that position.

I think the investigations we are carrying out are the appropriate ones at this stage unless any other information comes to our attention. I suspect most reasonable people would agree with that.

You have expressed concern about foreign ownership. I do not want to go back into the past, but you will recall that when the land transfer tax with respect to foreign ownership was removed in 1977, you had a different point of view; you welcomed foreign ownership.

I assume that will be one of the aspects the Minister of Municipal Affairs and Housing will look at in his review of the housing market and the availability of funds for that. Certainly I will draw that to his attention.

**Mr. Peterson:** You want it both ways. In the news release of November 10, someone quoting you in your ministry said he was extremely upset as a result of this series of transactions which have resulted in approximately \$230 million being taken out of rental properties by a process that contributes absolutely nothing to their value. But you are not prepared to do anything about it; that is what you are saying right now.

For example, are you suggesting that there was some untoward or criminal activities with respect to the trust companies? Have you got any evidence of that? If not, why are you investigating them? By the same logic, I suggest that under section 152 of the Loan and Trust Corporations Act, you could use your powers to look into all aspects of this deal, particularly

when we know that there appear to be a number of non-arm's-length transactions. The same company is both the vendor and the mortgagee in certain circumstances. Certain people have very complicated relationships between all these various companies. Why is there not enough prima facie evidence that this merits an investigation if at the same time you are investigating the trust companies?

**Hon. Mr. Elgie:** Regarding the issue of the trust companies, I think it is not news to you that under the Loan and Trust Corporations Act, the superintendent has that obligation in any event, but in view of the allegations and the opinions given about the value of the property, and in view of the magnitude of the transaction, it was my view that a special examiner, under section 152, was justified.

As to whether these transactions were at arm's length, I can assure you, and I am sure the chairman of the commission can assure you, that the matter will be reviewed very thoroughly when these applications for rent increases come before the commission. Let me assure you that if I ever have any evidence of any wrongdoing or suspected wrongdoing, and good, solid, reasonable and probable cause to believe that there has been some, then we will have to look at what options are available to us as a result of that.

**Mr. Peterson:** What you are going to do now is rely on a rent commissioner, some time in the future when there is an application for an increase in rent, to go into all these very complicated transactions, which, I say with great respect, you did not understand as the information unfolded and showed the pieces along the way. You were the last one to know. Everyone in this province was attacking it from various points of view, and it was coming up from various aldermen and various people of the press.

Our researchers have investigated this situation and have done a great deal of title searching and work and, let me tell you, it is still impossible to piece it all together. There are a lot of numbered companies; we do not know the real ownership in a number of situations. How can you reasonably expect some rent commissioner, under an application for increase in rent, to get to the bottom of this when you cannot?

**Hon. Mr. Elgie:** I would suggest that the Touche Ross special examiner, by the very nature of the mandate under the legislation, will inquire into the value of the properties. That would have to take into account the transac-

tions that lead to the purported value. I do not think there is any suggestion that issue will not be looked at.

**Mr. Peterson:** Are you telling me that all the aspects of this purchase are going to be looked into by Touche Ross? Are those your instructions? What is their mandate?

**Hon. Mr. Elgie:** The mandate under the section is very clear. I have got the section here to read: "...the special examination and audit of the books, the accounts and securities and to inquire generally into the conduct of the business or the several trust companies involved in providing mortgages for the Cadillac Fairview sale."

As I have said, to date, the companies have indicated that they are willing to co-operate and I do not expect that that will be a long process. I prefer to be one of those who likes to review the facts before making decisions, and I suspect that is the way you like to approach life too.

**Mr. Peterson:** What concerns prompted you to make the 152 investigation then?

**Hon. Mr. Elgie:** I have just answered that question in great detail, but I will be glad to go through it again.

The superintendent of insurance, of course, has a responsibility, a running and continuing responsibility, to ensure that the trust companies mortgage only up to 75 per cent of the value of the property. Because of the magnitude of this transaction and because of the statements that have been made about the differing values of the property, I felt that a broader investigation, as is allowed under section 152, was the approach that should be taken and that is the approach I have taken.

**Mr. Peterson:** How can that be, in view of the fact that on October 26, 1982, you stated: "I think our obligation... is to make sure there is no collusive relationship between people selling properties. I hope we can make certain that it is a reasonable sort of a sale. I have not heard anyone suggest that it is not a reasonable price, but of course those are matters that will be discussed when more details are known about it."

Do you have any information now that the relationships were collusive?

**Hon. Mr. Elgie:** At the time those remarks were made, as you know, the sale price that was before me, and before the public, was \$270 million; I think most people felt that was a reasonable and modest price for the number of units involved.

Do I have any evidence in my possession of collusion? No, I do not.

**Mr. Peterson:** Which trust companies are going to be examined under section 152?

**Hon. Mr. Elgie:** Seaway Trust, Crown Trust and Greymac Trust.

**10:20 a.m.**

**Mr. Peterson:** Is there a suggestion that Crown participated in the financing of these?

**Hon. Mr. Elgie:** Yes.

**Mr. Peterson:** Is that from title documents?

**Hon. Mr. Elgie:** No. That is from correspondence.

**Mr. Peterson:** This is correspondence you have not made public?

**Hon. Mr. Elgie:** It is personal and confidential correspondence, not to me but to the superintendent of insurance in his role as the person in charge of the Loan and Trust Corporations Act and in compliance with legislation.

**Mr. Breithaupt:** That will be available to Mr. Thom?

**Hon. Mr. Elgie:** Yes. It will be available to Touche Ross.

**Mr. Breithaupt:** As well.

**Hon. Mr. Elgie:** Yes. Well, Touche Ross is looking at the mortgaging aspect of it; so that material can be made available to them. I am not trying to withhold it; I just will have to be certain that the rules of confidentiality are not broken. There is nothing secret in it.

**Mr. Peterson:** Will you be looking into the Greymac takeover of Crown Trust and the involvement of Mr. Burnett?

**Hon. Mr. Elgie:** As you know, the securities commission was looking into one aspect of it, but I do not know of any statutory authority to look into that. Maybe the deputy has some other information, but I do not.

**Mr. Crosbie:** No. Only as it may be involved in the mortgaging arrangements.

**Hon. Mr. Elgie:** That's right. Only as it may be involved in the mortgaging arrangements.

**Mr. Peterson:** You will be looking into the relationship between Greymac Credit and Crown with respect to the financing of the situation and the financing of the Greymac purchase of Crown Trust under section 152. Are you going to go into that aspect of it or just the financing of these particular real estate transactions?

**Hon. Mr. Elgie:** The acquisition of Crown Trust by Greymac Trust may or may not be a

matter that the Touche Ross people feel they need to explore; I guess that will be determined by the information they obtain. But on the face of it and under the section, that is not part of their initial mandate.

**Mr. Peterson:** And on the face of it that does not concern you, and you are not asking them to look into that situation?

**Hon. Mr. Elgie:** I am always concerned if there is evidence of legal wrongdoing, and I have indicated that very clearly. If you have evidence that this is so, then I will be interested in having it.

**Mr. Peterson:** What was the source of your information that Greymac had sold its interest in the agreement to purchase to Kilderkin for \$312 million? The first time this became public was through you on November 10.

**Hon. Mr. Elgie:** My deputy, who is with us here today, met, I believe it was on Tuesday, with one of the solicitors and Mr. Player, and the figure of \$312 million was mentioned on that day.

**Mr. Peterson:** Solicitors of whom?

**Hon. Mr. Elgie:** Mr. Roger Wilson, who apparently represented Seaway and Kilderkin.

**Mr. Peterson:** Did you initiate that meeting?

**Hon. Mr. Elgie:** We contacted them; they were also trying to contact us. It was a crossing of telephone calls.

**Mr. Peterson:** How did you even find out that they are involved in the whole thing? Because when you met with Mr. Rosenberg on November 1—

**Hon. Mr. Elgie:** They contacted us to tell me. As I told the press, having answered a question from the third party about when I first became aware of things, I said it was Tuesday morning following a letter that the superintendent of insurance received from Seaway Trust. That was the first indication I had that there had been a multiple transaction.

I was reminded as I left the Legislature, and as I told the press, that two of my staff were sent to see Mr. Rosenberg on Monday afternoon. The appointment time was, I believe, about four o'clock, at which time he told them he had sold it to Kilderkin, but that is all the information they obtained.

**Mr. Peterson:** Sorry. Which day was that?

**Hon. Mr. Elgie:** I learned that on Monday at about six o'clock.

**Mr. Peterson:** November the—

**Hon. Mr. Elgie:** November 8.



**Mr. Peterson:** November 8, a week later. November 1 was your first meeting with Mr. Rosenberg.

**Hon. Mr. Elgie:** Yes. That is the only meeting I have had.

**Mr. Peterson:** There were a number of suggestions in the House that you should get together with him, and your response at the time was that your deputy was doing so. I remember we had an exchange on November 1, and you said that some time you would have that meeting. Obviously you walked out of the House into that meeting. What did you ask Mr. Rosenberg at that meeting?

**Hon. Mr. Elgie:** It is just as I have outlined in the Legislature. If you wish me to repeat it, I shall. I cannot recall them in order, but my recollection is that the discussions revealed the following information: first, that he would be acquiring the operating staff of Cadillac Fairview and, second, that he would be reselling the properties when a good offer was made.

**Mr. Peterson:** Was there any suggestion that an offer was in the works at that time?

**Hon. Mr. Elgie:** He said that he had been having discussions with several people and that he would be improving the buildings—I believe I recall him saying some carpeting and some other refurbishing—and that it was likely that the first rent increase he would request would be on approximately December 1.

**Mr. Peterson:** Do you believe he had that deal up his sleeve when he was talking to you?

**Hon. Mr. Elgie:** I am not going to make those determinations. Those are determinations that others will have to make on the basis of the information I have given you.

**Mr. Peterson:** Did you ask him if he had a specific purchaser in mind?

**Hon. Mr. Elgie:** I have told you what I asked him and what the answers were. I am not trying to be evasive, but I think these are conclusions that one will have to reach on one's own.

**Mr. Peterson:** We were not at the meeting; just you, Mr. Rosenberg and your deputy were, and it is very difficult.

**Hon. Mr. Elgie:** But I am telling you what was said to me at the meeting.

**Mr. Peterson:** The suggestion is that either you were frightfully naive or asked the wrong questions or you are not forthcoming with us. That is the suggestion, and I have yet to see that impression dispelled. This is a very critical question.

**Hon. Mr. Elgie:** I feel I have been very forthcoming with you. The information I gave the House was based on the meeting I had, and you will have to draw your own conclusions as to whether you feel I was misled or I am naive or whether my interpretation of the information was wrong. In any event, I tell you quite frankly that there is no doubt in my mind that the information I gave the House was my interpretation of the information given to me.

**Mr. Peterson:** So the sequence of events was, on November 1 when you met you had no idea there was going to be a quick resale or that a resale had been organized already and was waiting to proceed.

**Hon. Mr. Elgie:** I had no reason on the information given to me that day to make that conclusion, nor did I have any other information to make that conclusion.

**Mr. Peterson:** When did it come to your attention that the facts were very much different from what you had thought they were?

**Hon. Mr. Elgie:** Exactly in the sequence I have told you. We can talk about it for days, but those are the facts.

**Mr. Peterson:** I would like to hear them again.

**Hon. Mr. Elgie:** Okay.

**Mr. Peterson:** What day and through what source did that information come to you? Did Mr. Player just phone you out of the blue?

**Hon. Mr. Elgie:** On the late afternoon of Monday two of my staff went to Mr. Rosenberg's office, and at that time they were given a copy of a press release he had prepared, which indicated only that he had sold the properties to Kilderkin Investments. That was the information they were given by him and no further information.

**Mr. Peterson:** And would Mr. Rosenberg at that point not discuss it any more with you or your staff?

**Hon. Mr. Elgie:** I was not there to meet with him at that time.

**Mr. Peterson:** Would he not discuss it with your staff?

**Hon. Mr. Elgie:** That was the gist of the discussion: that he had sold the properties to Kilderkin.

**Mr. Peterson:** And you did not want to discuss any more with him. You felt you were finished with Mr. Rosenberg at the time.

**Hon. Mr. Elgie:** I was not there.

**Mr. Peterson:** Well, your staff are emanations of yourself.

**Hon. Mr. Elgie:** That may be, but in their eyes and in the eyes of most people that is not a discredit to them.

**Mr. Peterson:** What did your staff ask Mr. Rosenberg?

**Hon. Mr. Elgie:** They asked him if there had been a sale and, if there had been, what the purchase price was. He confirmed again, to the best of my recollection, that it was \$270 million but that there were some adjustments; as you know, adjustments take place at the time of closure and there might have been some increase over that. Actually it was their impression, they told me, that the final sale price would be something in the neighbourhood of \$290 million. Clearly they had a wrong impression of it, since the next day the details revealed that it was not that figure but more than that.

**Mr. Peterson:** All we knew at that point was that it was a \$312-million sale to Kilderkin.

**Hon. Mr. Elgie:** At that point my staff only had reason to believe that it was an extra \$20 million, something in the neighbourhood of \$290 million, and it was not until the next morning that I learned from other correspondence, which I have referred to, that the figure was \$312 million.

**Mr. Peterson:** Sorry. Just so I am clear, which correspondence? Was that from Mr. Player?

**Hon. Mr. Elgie:** No, from Seaway Trust in compliance with statutory obligations to notify us.

**Mr. Peterson:** So in the regular course of their filings it came in that they had in fact paid \$312 million. Is that right?

**Hon. Mr. Elgie:** No, not quite.

**Mr. Crosbie:** The Seaway Trust letter was pursuant to their filings under the Securities Act and advised that they had taken a \$76-million interest in the mortgages.

**Mr. Peterson:** Under a third wraparound mortgage.

**Mr. Crosbie:** Yes.

10:30 a.m.

**Mr. Peterson:** Did you ask to see that participation agreement of their relationships with the other trust companies? Have you ever seen that?

**Hon. Mr. Elgie:** No, but they have agreed to provide it all to us. I believe that is under way now.

**Mr. Peterson:** At that point too you revealed, as I understand the sequence, that not only was there a sale to Kilderkin but then it was over to the so-called numbered companies for an additional \$500 million. It was your suggestion that was indeed Saudi Arabian money.

**Hon. Mr. Elgie:** That is what the deputy was told and I was told that on Friday afternoon when I met with Mr. Roger Wilson, the solicitor, and Mr. Mastin and another solicitor from his firm.

**Mr. Rae:** It could not have been Friday, Bob, because your statement was on November 10.

**Hon. Mr. Elgie:** No, this is subsequent to this.

**Mr. Rae:** You made the allegation it was Saudi investment on November 10.

**Mr. Peterson:** That's right.

**Hon. Mr. Elgie:** No, I said the deputy had met with them on Tuesday, but actually I am not sure if he knew then it was Saudi investment.

**Mr. Peterson:** You said it was Saudi money in your statement on November 10.

**Hon. Mr. Elgie:** All right. That's fine. But as I understand it, Mr. Qutub was in town on Wednesday and as you know he was photographed, so I don't think he was trying to make a secret of the fact he was here.

**Mr. Peterson:** How did you know it was Saudi money? Who told you?

**Hon. Mr. Elgie:** My deputy told me.

**Mr. Peterson:** How did you find out?

**Mr. Crosbie:** I was told by Mr. Player and Mr. Wilson.

**Mr. Peterson:** On what day?

**Mr. Crosbie:** On Tuesday.

**Mr. Peterson:** On the Tuesday before, which would be November 9?

**Mr. Crosbie:** Yes.

**Mr. Peterson:** They told you at that point there had been a flip from Kilderkin to numbered companies for half a billion dollars?

**Mr. Crosbie:** Basically they outlined the series of transactions that had taken place. The essence of what they said was what was contained in the minister's statement. They are the ones who confirmed the transaction from—

**Mr. Peterson:** Have you ever checked? How do you know who owns those 20 or 30 numbered companies?

**Mr. Crosbie:** That is what we are in the process of doing, but the companies are registered now in the name of the solicitor who

incorporated them. We are in the process of having requests or demands for the particulars of directors and officers, but that still will not disclose the shareholders unless the shareholders are the directors.

**Mr. Peterson:** They could be some secretary in a law office, so I assume my friend Mr. Elgie is going to say he has no power and so you are going to go no further.

**Mr. Crosbie:** As the minister said earlier, the power to demand the particulars of any owners of a company would arise if they apply for a rent review.

**Mr. Peterson:** Are you telling me that until the point at which they ask for rent increases or go before rent review, there is nothing you can do?

**Mr. Crosbie:** I am not saying that, because we have ongoing discussions with the principals and we have discussed this question—

**Mr. Peterson:** Have you asked them the questions: Who owns these companies? Who are these people? How much new money is here?

**Mr. Crosbie:** We asked them specifically who owns the companies. We were told they were Saudi investors and that there was concern about disclosure of the identity of the specific investors. We have been discussing with them some mechanism by which we could authenticate the Saudi ownership without violating the concerns they had about the disclosure of the individuals.

**Mr. Peterson:** Are you aware that certain people who have looked at this deal are not sure there any Saudis involved at all?

**Mr. Crosbie:** I have heard that.

**Mr. Peterson:** You have heard that suggestion. In the absence of more reasonable suggestions, there is as much currency to that rumour as there is to a lot of other rumours about this deal. We are all struggling with this and your approach will never, ever, it appears to me, get to the bottom of this whole question, except possibly piecemeal. You know also of the suggestion that there is a good chance there is absolutely not one new nickel in this deal, that it is just a series of internal transactions between various closely related trust companies and individuals shuffling paper. Are you aware of that suggestion?

**Hon. Mr. Elgie:** I don't know that I've heard that, but I suspect that is a rumour that is

around. I don't know. I have no information to support that.

**Mr. Peterson:** Do you know that \$145-million wraparound third mortgage which is going from the numbered companies is producing at the same time probably \$125 million going to the original vendors? There is \$20 million missing along the way somewhere and there is no suggestion there is any new \$125 million in from other companies, from new investors. Are you aware of that?

**Mr. Crosbie:** I have heard the statements made, or the rumours to that effect.

**Mr. Peterson:** I am going to tell you something. We have searched 90 per cent of the title documents. It is a huge job. I am not sure if you people have done it. It is a huge job and it is a complicated job. Let me tell you, the theory I have just put to you could stand up on the basis of what is publicly available. I cannot prove it absolutely, but it may well be the truth.

I am suggesting to you that you will never, ever know the answer to that going at it as you are in a lot of slipshod little piecemeal investigations without ever getting to the real guts of the issue. That is my whole contention with the minister today. I am trying to help you, not hurt you. It is this deal that got you into all the trouble and the whole credibility of the rent review process. That is why we have to look into every single aspect of it. There are too many aspects of this that are still going without a review.

**Hon. Mr. Elgie:** I would suggest to you, Mr. Peterson, that the issue of the mortgages and the value of the properties will go to the very heart of that issue. I think I have an obligation to await the facts of that information.

**Mr. Peterson:** There are a number of facts you will never get to know with your approach.

**Hon. Mr. Elgie:** That may be, but I am endeavouring to deal with it responsibly and honestly, I believe, and I hope that will lead to an account of the whole story.

**Mr. Peterson:** We are going to miss the whole story. That is what bothers me. I have seen this far too many times around here. When we have a little problem we appoint a commission or inquiry into some aspect of it, never getting at the real guts of the issue. It certainly gives the public the impression something is being done but the real facts of the real case, it appears to me, will go uninvestigated. That is what bothers me.

The other aspect of this deal brings into



question the whole system of business registration in this province. You can see the difficulty you are having getting behind the corporate veil with all the authority you have, all the moral suasion you have, and the great respect you have as minister.

Presumably a lot of people will tell you things just because you ask them, whether you have a right in law to know or not, but the difficulty you are having getting behind the corporate veil speaks to a question which I think has to be looked at again. Let me ask you, are you going to ask anyone to investigate that as coming out of this great mess we have created for ourselves?

**Hon. Mr. Elgie:** Do you mean whether the ministry should have the power to go behind the directorship that is filed under the Corporations Information Act to determine who the true owners are?

**Mr. Peterson:** Who the beneficial owners are.

**Hon. Mr. Elgie:** As you know, that has not been part of the legal standard that has been applied anywhere in this country. If it is a suggestion you are making, I am prepared to look at it, but it is not part of the present process in which private individuals and private companies have asked to have their privacy respected. If you are suggesting otherwise, I am certainly prepared to look at it. It is not an issue without problems, as you know.

**Mr. Peterson:** I know it has great problems. That is why it has to be looked at. I understand the problem probably as well as you do, but you know the problems very well because you do not know the truth about who owns these companies and you are frustrated. What your deputy is telling me is you will not know until the matter goes to rent review.

**Hon. Mr. Elgie:** No, to be fair, that is not entirely what he said.

**Mr. Peterson:** That is what you are saying, sure.

**Hon. Mr. Elgie:** He said he is receiving co-operation in his efforts to see what further information can be obtained to validate the source of the money.

**Mr. Peterson:** You do not have the legal right—

**Mr. Chairman:** Mr. Peterson, if I could interrupt, I would like to share the time around. We have a total of five hours and several other speakers. I wonder if you are going to be much longer on your line of questioning. We should plan on moving on fairly soon.

**Mr. Rae:** Could I raise a supplementary on this one particular question on corporate disclosure? Would you permit that?

**Mr. Peterson:** Sure.

**Mr. Rae:** I think it should be noted, and I listened with interest to the remarks of both Mr. Peterson and Dr. Elgie, that our party moved an amendment to the Corporations Information Act on November 4, 1976, which would have required that for any corporation or individual holding "directly or indirectly five per cent or more of any issue of share capital of the corporation, or in which the company directly or indirectly holds more than five per cent of any issue of share capital," the percentage of shares held in each case would have to be registered at the time of registration of the company.

10:40 a.m.

It is interesting to note that this amendment lost 47 to 24, with the Liberal Party supporting the Conservative Party. Perhaps if Mr. Peterson had been a little more diligent in supporting our amendment at that time, we might be able to have the information today which he claims he wants to have.

**Mr. Peterson:** Do you have any more interjections?

**Mr. Chairman:** Any more helpful interjections?

**Hon. Mr. Elgie:** Any more helpful supplementaries to make?

**Mr. Swart:** On a point of order, Mr. Chairman: I agree with what you have said about sharing the time. If there is any change in the line of questioning to go to another subject, perhaps that would be a good time to break off and let the others who have their names down get in on some of the questions.

**Mr. Peterson:** I have a great number of questions that I would like to pursue but I want to be fair. Is there an informal agreement that you spread the time equally? How are you handling it?

**Mr. Chairman:** I did not even suggest ahead of time, and perhaps I should have, that we share the time equally as much as possible. If you do not mind, perhaps we can move on to another question. I have no objection to your coming back to this later on, because we have five hours to spend on it. As long as we can share the time relatively equally, that would be my suggestion and request.

**Mr. Haggerty:** Do we have a timekeeper?

**Mr. Chairman:** Up to now, we have spent 35 minutes on it. Mr. Rae has a few questions he would like to ask now. Then we will keep moving around.

**Mr. Rae:** Thank you, Mr. Chairman. Basically, I have two lines of questioning, or two sets of questions. The first has to do with what we know as the Cadillac Fairview situation and the second has to do with the minister's statement yesterday with respect to the rent review process.

My first question to the minister is, why are you so reluctant to say that you were misled by Mr. Rosenberg?

**Hon. Mr. Elgie:** I suppose it is a matter of how one feels about my interpretation of the information which was given to me. I took my statement in the House to be an accurate account of what transpired. I have told you about the conversation. You may have your personal conclusions about whether I was misled, mistaken, naive or whatever, and I have mine. I am only prepared to tell you what the gist of the conversation was and that I made the statement on the basis of that conversation.

**Mr. Rae:** Let me put it this way. You are a man of the world, Dr. Elgie—

**Hon. Mr. Elgie:** I am far from that. I am a humble physician who has lived a very sheltered life.

**Mr. Rae:** You are also a lawyer. You could sue yourself for malpractice and win, whichever way the result came out.

**Hon. Mr. Elgie:** I think I would have a conflict of interest there. Perhaps you meant to say I could defend myself.

**Mr. Rae:** I want to suggest to you, sir, that \$312 million does not grow on trees. If somebody is speaking to you on a Monday, a week before the transaction was heard about—Do we know when the Greymac to Kilderkin transaction actually took place? Do we know the closing date or the date that deal was signed and arranged? Do we know that date?

**Hon. Mr. Elgie:** I do not know the exact date. I do not know whether it was the Friday or the Monday, but it was one of those days.

**Mr. Rae:** Would you agree with me that Greymac and Mr. Rosenberg must have known that a deal was not simply being contemplated but was actually in the works? Would you not agree that would be ordinary commercial practice? You are the Minister of Consumer and Commercial Relations. Would you not agree that would be something that actually would be

known by Mr. Rosenberg when he was sitting in your office?

Interjection.

**Mr. Rae:** The question was not that difficult.

**Hon. Mr. Elgie:** Gee whiz, you can see the impact you are having on the sound system here. You never had that problem when you were in Ottawa. It is different here, isn't it?

**Mr. Rae:** We had that problem.

**Hon. Mr. Elgie:** I can only say that one could certainly reach the conclusion that the arrangements could well have reached a stage that were not compatible with the statement I made on the Monday, but I am not prepared to say, nor did I know, that there had been any previous completion of agreements.

**Mr. Rae:** I want you to know I am not suggesting for an instant that you knew.

**Hon. Mr. Elgie:** Okay.

**Mr. Rae:** What I am suggesting for an instant is that you were misled. Frankly, you are being very naive not to say that you were misled. You must have been misled when you met with Mr. Rosenberg on November 1.

**Mr. Breithaupt:** They must have been typing the documents while you were meeting.

**Mr. Rae:** Surely you know that.

**Hon. Mr. Elgie:** Certainly that is a suspicion that many might have.

**Mr. Rae:** If the deal was registered on November 5—we do not know precisely but we think it was registered on that day—I suggest that your reaction should be a little different. It leads me to some other questions.

When a president, a representative of a trust company which has fiduciary obligations of some real importance, is speaking to a minister of the crown who is responsible for the regulation of the affairs of his company and you have a conversation with that person concerning the activities of his company, a conversation I can only describe as misleading, and your reaction to that conversation and your subsequent embarrassment in making a statement to the House which was not an accurate indication of what in fact was transpiring on November 4, because the deal was registered on November 5; that is to say that you cannot say whether or not something wrong will happen on November 1.

Quite honestly, I cannot understand your reluctance to subsequently say: "I was misled. As a result of having been misled, I am going to insist on a thorough investigation of all aspects of this transaction." What is the source of your

reluctance, having been misled in your own office?

**Hon. Mr. Elgie:** It is not really a question of reluctance. I have said before that I think I have an obligation as minister to address issues in an appropriate way. I think the appropriate way is to await the results of the inquiry and the examination of the trust company books by Touche Ross and then to take whatever steps and decisions are required following that or, in the event, other information that comes to my attention.

**Mr. Rae:** Let us be clear on this. The loan and trust corporations investigation under section 152 will not be an investigation into Kilderkin Investments and it will not be an investigation into the numbered companies. You can correct me if I am wrong. I know the powers under the Public Inquiries Act are significant, but I do not see anywhere in that act that you are going to be able to get at a question which I think is an important question. Were you as a minister of the crown in fact misled about a transaction involving hundreds of millions of dollars when you had a conversation with the president of the company on November 1? Do you not think you are entitled to an answer to that question?

**Hon. Mr. Elgie:** You are in error if you think that Touche Ross will not see it as an obligation to look into the transactions that took place to establish the value of those properties and the extent of mortgaging.

**Mr. Rae:** Are they going to tell us who are the beneficial owners?

**Hon. Mr. Elgie:** I do not think they have the authority to tell us—

**Mr. Rae:** I do not think they do either.

**Hon. Mr. Elgie:**—who the beneficial owners are.

**Mr. Rae:** Exactly.

**Hon. Mr. Elgie:** I think I have already responded to that, and I appreciate your comment about the amendment from your party in 1976. I have to tell you that there are issues of privacy with respect to individuals and private corporations that have to be reviewed, if one is going to be thinking of that sort of approach.

**Mr. Rae:** It is refreshing to hear that this government is concerned about privacy. It seems they are in some circumstances and not in other circumstances. They seem to be a little more concerned with maintaining the privacy of large companies than of some other things I could think of.

If I may just say this to you, I find your reaction strange. I find your reluctance to get at the truth of this question and what has happened somewhat bizarre.

Let me just raise one other question with you—

**10:50 a.m.**

**Hon. Mr. Elgie:** I have no reluctance to get at what exactly happened but I intend that it should be done by appropriate routes, not in some helter-skelter fashion in which I act on the basis of an absence of reasonable cause.

**Mr. Rae:** I am not talking of that.

**Hon. Mr. Elgie:** I mean that quite frankly.

**Mr. Rae:** Don't you think you have reasonable cause when you know that these two transactions occurred within the space of a single week, the same week in which you were meeting with this guy? Don't you think that is reasonable cause?

**Hon. Mr. Elgie:** Those are determinations that I will have to make at some stage. But let there be no doubt that I am as interested as you are in finding out the exact nature of the transactions: where and whether the trust company role in it and the valuation of the properties and the amount of mortgages is in line with the statute.

What I am telling you is that I have to act on the basis of facts, not on the basis of some other information. That is what I will be doing.

**Mr. Rae:** How can we find out whether or not these are arm's-length transactions, and the exact nature of the transaction from Cadillac Fairview through to the numbered companies, if we do not know who the beneficial owners of the numbered companies are? How can that possibly be discovered?

**Hon. Mr. Elgie:** I have indicated the problems with respect to the ultimate owners. I have also indicated that there are several aspects with respect to the transactions that will undoubtedly come to light as we proceed.

First, as the deputy has told you, he is having conversations about finding out greater information about who the beneficial owners are. Secondly, I have indicated to you that it is my belief that Touche Ross will inevitably be required to look at the transactions as they try to evaluate the property.

Thirdly, the Residential Tenancy Commission—and the chairman is here today to comment on it—has the authority and indeed has used that authority in its endeavours to



make certain that arm's-length transactions occur. He has assured me that will happen.

**Mr. Peterson:** You say you do not want a helter-skelter approach. That is what you have: four different inquiries going on skirting around the periphery asking a question, with limited powers here, where you may or not be able to get at the truth—and maybe if they are good to your deputy they will tell him. But under a public inquiry into this particular transaction, you would have the power, even without amending the law, to go into all aspects of this deal. Surely that is the point of the leader of the New Democratic Party and my own.

That is surely a reasonable request, given the obviously profound embarrassment you have personally had over this situation, and the compilation of an unfortunate lack of truths that have been developing in this matter. Surely that is reasonable. It is precise; it is direct; you have the power. And there is no other solution to this problem.

**Hon. Mr. Elgie:** As I have said before, I like to think we still live in a country where you only order inquiries into events such as that if you have reason to believe there has been some legal wrongdoing. If I have any indication of that, clearly I will have to evaluate the steps that are appropriate in the light of that information.

**Mr. Rae:** Just to come back: I want to say on the record again, I find it astonishing. Indeed it raises questions in my own mind as to exactly what causes the reluctance of this government to carry out a thorough and complete investigation. When an individual comes into a minister's office under the circumstances which I have described, and gives what I can only describe as a misleading account of what transpired in a major business transaction in this province, it raises questions as to the source of the government's reluctance.

I do not understand it. I honestly cannot see it.

One other aspect which I want to—

**Hon. Mr. Elgie:** Wait a minute. Let us stop there. There is no reluctance. I have indicated that I will act in response to whatever facts are brought to my attention.

**Mr. Rae:** But you cannot find out the facts. You cannot find out who the beneficial owners are.

**Hon. Mr. Elgie:** I do not agree that we cannot find out the facts. I have outlined the steps that are under way in order to establish more fully a number of aspects related to this transaction.

**Mr. Rae:** What legal authority does your deputy have, or does the Touche Ross accountant have to find out who the beneficial owners of the numbered companies are? What statute can you point to to find out that information?

**Hon. Mr. Elgie:** It is nice to repeat it again, but I have said that I know of no statute at the moment.

**Mr. Rae:** So, in other words—

**Hon. Mr. Elgie:** I have already said that.

**Mr. Rae:** Exactly. Your statement that you are satisfied that you can get a full accounting of what is going on does not jibe with the authority which you have given to the people who are supposed to be finding out that information.

**Hon. Mr. Elgie:** I have made it very clear that I will proceed on the basis of facts that are presented to me, as they are presented to me, but I do not intend to exercise authority that I do not have the statutory power to exercise with respect to investors. For all I know and from all the superficial information we have on this issue, there is no reason to believe that the investors are other than innocent investors.

**Mr. Rae:** For all we know, we do not know anything. What you know is what a little birdie told you about Saudi Arabia. We don't know anything else.

**Hon. Mr. Elgie:** We will learn more as the investigation proceeds.

**Mr. Rae:** Boy—Pollyanna.

**Hon. Mr. Elgie:** I hope you learned more than phrases like that up in Ottawa. There is a whole new dictionary open here.

**Mr. Rae:** I did not learn that one in Ottawa. It has been a long time away from me.

**Hon. Mr. Elgie:** Where did you pick that up then?

**Mr. Rae:** It has been a long time back home.

**Hon. Mr. Elgie:** In your childhood, under that terrible Liberal influence you were brought up under.

**Mr. Rae:** Or Mary Poppins; whatever it is, you are certainly not giving yourself the benefit of the doubt in terms of finding out what is going on.

**Hon. Mr. Elgie:** Let there be no doubt that is my desire to find out what is going on.

**Mr. Rae:** I do not see how you can.

**Hon. Mr. Elgie:** We will see.

**Mr. Rae:** The premise of your press release on November 10, the press release that has no

date on it, just a series of transactions none of which have any dates, transactions which appear to be based on information which was told to you by a variety of figures none of whom seem now to be in town—they have all gone away for a while; some to California, some are in Florida, some are back in Saudi Arabia. But the whole assumption you are making is that a company, which if I may say so is not exactly a Mary Poppins operation—referring to Cadillac Fairview—agreed to a sale—

**Hon. Mr. Elgie:** There is a date on the news release—November 10.

**Mr. Rae:** There is a date on the news release. There is no date on any of the transactions. That is the only thing that is dated. Nothing else has a date on it.

The premise of your assumption as to what has transpired is that a company, which I would describe as having a degree of sophistication in the real estate market, and a degree of sophistication in dealing with capital markets in the world—I am referring to Cadillac Fairview, many of whose principals are not unknown to the minister or to other members of his party—agreed to a sale for a little over half of what the price eventually became to a third party a week after the sale was closed. Does the minister not think there is something slightly implausible in that? Is the minister really arguing that Cadillac Fairview is that unsophisticated and would really arrive at an arrangement that undersold the property to that extent?

**Hon. Mr. Elgie:** I would expect that the implications of that clearly are part of the study under section 152. I cannot recall, but that document we received yesterday, which was the agreement to purchase, also would seem on the face of it to indicate that Cadillac Fairview did not envision the multiple passing, as I recall one phrase in that agreement.

**Mr. Rae:** They might have envisioned it and that is why they tried to protect themselves against it.

**Hon. Mr. Elgie:** I do not know that, but we will see what unfolds. I am as interested in this as you are—perhaps more.

**Mr. Rae:** I wish we had concrete evidence that was true.

May I just conclude with one other question before making a summary on this line of questions, and then come back to more general rent review questions which I wanted to raise?

What discussions have you had with the federal government with respect to a potential

or possible investigation under the Foreign Investment Review Act.

**Hon. Mr. Elgie:** I have written to the Foreign Investment Review Agency on two occasions. I would ask my deputy, who I believe has had some meetings with FIRA, to comment in response to that.

**11 a.m.**

**Mr. Crosbie:** I have had two meetings with representatives from FIRA and I know they are following up. They are carrying out their investigation into this matter so they can make a determination and report back to their minister. That is currently under way.

**Mr. Rae:** Correct me if I am wrong, but we do not know yet whether a FIRA investigation is even possible or called for because we still do not know who the beneficial owners of the property now are. Is that correct?

**Mr. Crosbie:** The FIRA people are looking into the question of the ownership. Obviously that is a question. If there are not foreign owners of the companies, then obviously there would be no need for a FIRA investigation. My understanding is that they are meeting with the principals and the solicitors representing the various companies and will be going into those questions.

**Mr. Breithaupt:** Might I ask as a supplementary: Will they have the authority under FIRA to inquire clearly into the beneficial ownership with the presumption that may or may not remain as privileged information? Do you know that?

**Mr. Crosbie:** No, I do not know as a fact whether the law gives them that power or not.

**Mr. Rae:** If I could just conclude on this line of questioning—

**Mr. Crosbie:** The answer is yes, FIRA can inquire into it.

**Hon. Mr. Elgie:** Do they not have to make a prior determination of whether they have authority to address the issue?

**Mr. Crosbie:** I do not know. It is my understanding that they are at the preliminary stage where they have to determine whether the minister has reasonable grounds on which to order a FIRA investigation.

**Mr. Peterson:** But there is a very wide discretion in that, if they decide they want to investigate it, they will investigate it and they will ask your opinion about whether they should investigate it. If you are forceful enough with FIRA in your secret communications, then you have

some influence in persuading them whether they have the power. On that subject, I hope you have taken a very strong and forceful line that we should use that avenue in addition to the potential avenues of investigation you have. Have you done that?

**Hon. Mr. Elgie:** I have written to them and my deputy has met with them. We have offered any co-operation we can give them.

**Mr. Rae:** Would you be prepared to table your correspondence with FIRA?

**Hon. Mr. Elgie:** Sure.

**Mr. Rae:** As has been stated, your government would have to be consulted to see whether you wanted the deal approved or whether you wanted certain conditions attached, and those conditions could well involve the question of rental increases as much as anything else, as I am sure you are aware. I think it is important for us to know exactly what position your government has taken so far.

If your November 10 news release is correct, and if it is discovered that the beneficial owners, the real owners of these 11,000 units, are Saudi Arabian investors, are you prepared to ask the government of Canada either to block that sale under FIRA or to see any conditions attached to that sale?

**Hon. Mr. Elgie:** As you know, communication between the federal government and our government is through the Minister of Industry and Trade (Mr. Walker). If FIRA does feel it has justification to carry out the investigation and reach any conclusions, I would support whatever steps are authorized within its terms of reference. But I do not do that directly. I have to do that through the minister responsible.

**Mr. Rae:** Judging from some other statements the Minister of Industry and Trade has made about foreign investment, one questions the extent to which he is going to be a bear on this issue.

I would like to ask you the question again directly. Are you prepared, on behalf of the government of Ontario, to submit to the Canadian government that this investment does not have overriding benefit to Canada?

**Hon. Mr. Elgie:** My remarks are as stated. When the final report comes from FIRA, I am prepared to recommend to my colleagues the recommendation I said I would.

**Mr. Rae:** You say once FIRA has made up its mind, you are prepared to recommend that

Ontario go along with it. What choice do you have?

**Hon. Mr. Elgie:** It is their legislation and they consult us for our advice on it.

**Mr. Rae:** I am asking you, what advice are you going to give them? Are you going to suggest very strongly to FIRA that in the view of the government of Ontario, which has responsibility for property and civil rights in this province, this deal has no substantial benefit to Ontario tenants and to the people of Ontario? Are you prepared to submit that?

**Hon. Mr. Elgie:** You are asking me to speak on behalf of the government when I have already told you that it is the minister responsible for those communications who will convey the message to them. I have also indicated that I will support whatever the legal decision is with respect to FIRA and its recommendations.

**Mr. Rae:** You have not told us.

**Hon. Mr. Elgie:** I have told you what I am going to tell you.

**Mr. Rae:** I will tell you what you have not told us. People should understand exactly what you have not told us. You have not told us whether you think a purchase for \$500 million, potentially by foreign investors, is in the best interests of the people of this province and in the best interests of the tenants who are affected by that sale. Are you not even prepared to say that?

**Hon. Mr. Elgie:** I have said that I have a great deal of anxiety about the value of the property and the impact of that on tenants. Obviously, that is why the investigations we have indicated we are going to do and are doing will be carried out. So clearly my feelings are on the table.

**Mr. Rae:** Have you met with Mr. Walker yet to discuss this question?

**Hon. Mr. Elgie:** No, I have not. He has not been consulted yet. As soon as he is, I will meet with him.

**Mr. Rae:** You have sent letters to FIRA?

**Hon. Mr. Elgie:** Yes.

**Mr. Rae:** But you are not going to tell us what position you are prepared to recommend to the government. Do you think the \$500 million was a reasonable offer?

**Hon. Mr. Elgie:** I will have better information on that when we complete the investigation.

**Mr. Rae:** You thought \$270 million was a reasonable offer. Do you think \$500 million is a reasonable offer?



**Hon. Mr. Elgie:** I will have better information on that when the Touche Ross study is completed.

**Mr. Rae:** I really think you are letting the tenants down.

**Hon. Mr. Elgie:** If that is what you think, then you and I are not on the same wicket on that issue, because I know I am interested in the tenants.

**Mr. Rae:** I know you are a man of great concern and so on, but I think—

**Hon. Mr. Elgie:** Like you.

**Mr. Rae:**—concrete action speaks much louder than declarations of general interest. We are asking a very specific question as to what position your government is going to take on a transaction that may have to be approved by FIRA.

**Hon. Mr. Elgie:** That will be known when FIRA makes its recommendations and when I make my views known to the minister.

**Mr. Rae:** Will you tell us what you are going to tell Mr. Walker?

**Hon. Mr. Elgie:** I will make those determinations when I reach that part of the road.

**Mr. Rae:** When are you going to be meeting with Mr. Walker?

**Hon. Mr. Elgie:** As I have said, Mr. Walker and I have nothing to meet about at the moment since, to my knowledge, nobody has put anything before him. Clearly, the habit and the pattern is for the minister who has a particular interest in the area to be consulted.

**Mr. Rae:** When there is a question of property and civil rights in Ontario affecting thousands of tenants, something that is apparently being considered by the federal government, I would think this government would be taking a slightly more active role in protecting the interests of people who are going to be devastated by the impact of a sale worth \$500 million.

**Hon. Mr. Elgie:** If you do not think the actions I announced yesterday are perceived as being in the interest of tenants, then you should start answering my phone calls.

**Mr. Rae:** I have phone calls of my own to answer.

**Mr. Chairman:** You have about six minutes left.

**Mr. Rae:** Perhaps in the six minutes remaining to me, I might just speak to you about a phone call I got last night. I have been getting a number of phone calls—particularly during the by-election, as there are a number of buildings

in my constituency that have been affected by some very significant increases. The first question I want to raise with respect to the rent review proposals you made yesterday has to do with the cut-off date of October 31, 1982, which for the record is the day before you met with Leonard Rosenberg. It was also Hallowe'en, but I do not know what other significance that date has.

Last night I received a phone call from the president of the tenants' association at 22 Alcorn, a building that is currently owned by a company called O'Shanter Development Co., 141 Avenue Road. They faced refinancing and resale last year and that produced an average increase of \$100 per month. They are now being faced with another proposal for another increase.

I would ask you to look at a number of other increases that have taken place. At 40 Earl Street, the increases were 35 to 105 per cent in a decision in June 1982; the owner was somebody called 495929 Ontario Ltd. The rent increase at 172 Queens Avenue was 63 per cent; the decision in July 1982; the owner was 380515 Ontario Ltd. The building at 2401 Queen Street was sold in January 1980, in 1979 and in 1978, with rental increases of 25 to 35 per cent in each of the past three years; the owner is 391885 Ontario Ltd. One could go on.

Why do you set the date as October 31? Why not attempt to make this retroactive to all applications currently before the Residential Tenancy Commission?

11:10 a.m.

**Hon. Mr. Elgie:** The guidelines that the commission can elaborate on, if you wish, will apply to all hearings, if I am correct. The chairman can comment on it. Would you care to join us at the table, Mr. Williams? Mr. Williams is the chairman of the Residential Tenancy Commission.

It is my understanding that the guidelines, which you now have in principle form, will be applying to all hearings occurring from now on. Is that true?

**Mr. Williams:** That is correct. Any hearings that occur from today onwards will have applied to them the new guidelines which were approved the other day. Those guidelines provide for several measures. One is that when a resale has occurred, one has to remember a landlord has to serve a 90-day notice on a tenant of a rent increase. He also has to serve the commission with a 60-day notice of application.

You will also probably be well aware that the

Residential Tenancy Commission has a backlog of work. We are not current. We are endeavouring to become current and we are in the process of becoming so. The hearings we are conducting today are probably applications that were filed about four months ago. Therefore, the new guidelines that are being applied or being suggested for commissioners' considerations will occur with respect to hearings that occur today and afterwards.

**Mr. Rae:** But it cannot or will not refer to decisions that have already been approved?

**Mr. Williams:** That is correct.

**Mr. Rae:** Can I ask the minister why he wouldn't have done that?

**Hon. Mr. Elgie:** Do you mean to have the commission go back and go over previous decisions? I think that would be stepping beyond what would be considered appropriate measures. I really do.

**Mr. Rae:** If I may say so, I raise this because—

**Hon. Mr. Elgie:** But, of course, if any of those transactions related to financing and therefore necessitate, as they will, a further application to the commission, the commission will be applying its new guidelines to those transactions for the balance of the financing.

**Mr. Rae:** I understand that but, if I may say so, the assumption behind the government's policy appears to be that Cadillac Fairview has produced a problem, but the fact is that tenants have been complaining about and living with this problem for a very long time.

**Hon. Mr. Elgie:** I can only say that I have been aware of the tenants' views on this and I have had discussions with the chairman. He may wish to comment on discussions that have taken place and the review of the issues that he has instigated going back several months.

**Mr. Williams:** Several months ago the minister met with various landlord groups and various tenant groups, hearing their concerns about the rent review process. We were also in the process of preparing our annual report for the Residential Tenancy Commission for the year ended March 31, 1982.

In August of this year the minister asked the Residential Tenancy Commission, through myself, to review the Residential Tenancies Act, particularly with reference to the rent review provisions because the balance have now been proclaimed, with two particular thoughts in mind. One was the public policy aspect and the

other aspect related to the efficiency of the administration.

Since the act was introduced in 1979, and it was a new act at that time, it was an ideal opportunity to determine whether the act was being administered in the most expeditious way or whether, through legislative changes, further efficiencies could be achieved.

At about that time the Residential Tenancy Commission was also concerned with the huge backlog of work it was carrying on. First, we prepared a proposal to the minister and to government that the staffing of the Residential Tenancy Commission be increased significantly to address this backlog situation. I am prepared to answer that in more detail, but I suspect you do not want to hear about that right now. However, it did take a significant amount of our time to prepare that.

Beginning in about September, a review of the legislation was carried out by senior staff members. A number of people from various ministries were brought together at my request to provide input with regard to two matters—one was public policy and the other was efficiency—and a number of recommendations came out of that.

I held a conference of commissioners at the end of September. At that time, commissioners' comments were invited on both of those issues. Subsequently, I have had a series of meetings with the board of commissioners, which is the senior administrative body of the Residential Tenancy Commission.

With respect to administrative matters, we have narrowed those down. Although we have not made any specific recommendations at this point, we know what we wish to recommend to streamline the act. Perhaps they could be considered as housekeeping amendments. They are not serious in nature at all, just for clarification purposes.

With respect to other public policy issues that are contained in the guidelines of the Residential Tenancy Commission, the board has had a series of meetings in that regard and has finally approved a number of guidelines, some of which were announced yesterday in the minister's statement in the Legislature. There were a couple of others that have also been passed, which are a little less interesting.

**Mr. Rae:** I know I am coming close to the end of my time, but I want to ask you one last question on the guidelines, if I could.

Where mortgages come due and no resale takes place, am I correct in understanding that

the guidelines do not apply, which would mean that even under the guidelines some tenants may still experience increases of 20 to 30 per cent where old mortgages come due and where no sale takes place?

All the guidelines that I see refer specifically to financing arising out of resale and not problems arising out of refinancing.

**Mr. Williams:** With respect to the 20 to 30 per cent, I cannot answer that. I suspect that the ordinary refinancing that is taking place today, with mortgage interest rates at 13.25 per cent, would be in that vicinity.

**Mr. Rae:** Sixteen at Greymac.

**Mr. Williams:** It depends also on the interest rate that existed on the former mortgage as well. For example, it could be seven per cent, a real old one, or it could have been renewed a year ago at 12 per cent, hopefully.

It is very difficult to answer the question as to the amount of the mortgage. However, with respect to the first part of your question, I understand the legislation that is going to be introduced simply sets a cap on the amount of financing that is allowed to be passed through as a result of a sale or a resale.

11:20 a.m.

**Mr. Rae:** It does not deal with the question of refinancing on a property that has not been sold?

**Mr. Williams:** That is correct. But I do anticipate the amount that is going to be passed through as a result of refinancing this year will be less than last year.

**Mr. Rae:** If I could, I would like to complete this line of questioning. If a developer renews a mortgage on a building he already owns to buy or to do something else with some other property, are the tenants in that old building going to be stuck again?

**Mr. Williams:** No, sir. We do not prevent any landlord from placing any amount of mortgages he wants on a particular property. However, in terms of costs passed through, the only amount we will pass through is the amount of mortgaging that existed on the building at that particular time and any additional amount of financing he places on it where the money is used for that particular building. We will allow it to be passed through, provided it is a legitimate expense.

If you are suggesting a landlord or developer takes money out of the building to use leverage to purchase additional properties, we do not

prevent him from doing it; but we do not pass those costs on.

**Mr. Breithaupt:** My leader, Mr. Peterson, has several questions to complete on the Greymac theme; so I will defer to him to allow that area of today's discussions to be attended to.

**Mr. Peterson:** Since you are obviously very close to the apartment scene, particularly in Toronto, is it fair to say that we probably have more serious problems than in other parts of Ontario?

**Mr. Williams:** There is a low vacancy rate throughout the province, with the exception of Windsor. Perhaps rent controls would not be required if there were a satisfactory vacancy rate throughout the province. I would say the matter is serious throughout the province, except for Windsor right now where there is lots of competition.

**Mr. Peterson:** You are fairly close to this situation, I imagine, through your various officers reporting back about transactions and changes in ownership of real estate. You would get a fairly good feeling about what is going on in the marketplace. That is a fair statement. Surely you should be in that position.

**Mr. Williams:** We do not have any application from any of the numbered companies with respect to the transfer of properties from Cadillac Fairview to Greymac, to Kilderkin, to numbered companies and leasebacks.

**Mr. Peterson:** Why are you answering a question I did not ask you? Did you write your answers before you came here?

**Mr. Williams:** No, I did not.

**Mr. Peterson:** I am asking you, are you familiar with changes of ownerships? Are you a repository of that kind of knowledge? You must be, at least on an informal basis, if not on a formal basis.

**Mr. Williams:** No, I am not a repository of that information. I depend on the registry offices and the land titles offices to provide that or to have that information when I require it.

**Mr. Peterson:** When did you first hear about Kilderkin and Maysfield corporations?

**Mr. Williams:** I believe when I read it in the newspaper.

**Mr. Peterson:** So you never really heard of them before. They are sort of new companies that sprang on to the scene out of the dust.

**Mr. Williams:** Yes, at that time. Since then, I have learned that we have applications from



Kilderkin in our Ottawa office which have been filed recently.

**Mr. Peterson:** And they have bought some properties in London and Kitchener, principally from Key Property, I gather. You are aware of that.

**Mr. Williams:** I do not know who they bought them from.

**Mr. Peterson:** Now you are seeing a great deal of activity.

**Mr. Williams:** Yes, we are.

**Mr. Peterson:** Do you have any idea who the beneficial owners of that company are?

**Mr. Williams:** No, I do not at this point.

**Mr. Peterson:** Is it your plan to inquire into that?

**Mr. Williams:** I am very concerned about the entire matter, and we are in the process of creating a special team to be put together to deal with any application that comes before us from Kilderkin or numbered companies, whoever might be the applicant, where Cadillac Fairview was the former owner.

**Mr. Peterson:** So you have a SWAT team just to look at these; now there is a fifth group looking into this situation. You have a SWAT team.

**Mr. Williams:** We are not looking into it. If we get applications from them for rent increases, we have a team ready to deal with those.

**Mr. Peterson:** Would your SWAT team take information from one set of hearings over another set of hearings on property owned by Kilderkin?

**Mr. Williams:** The purpose of putting a team together in this situation is to ensure absolutely that we do not get whipsawed around. If we have different commissioners hearing these matters, we want to ensure the Residential Tenancy Commission treats all these applications in a consistent manner.

**Mr. Peterson:** Do you feel it would be helpful to you to know who owned Kilderkin and what it is really all about?

**Mr. Williams:** I am awaiting the public report the minister has referred to earlier.

**Mr. Peterson:** You know we are not looking into that matter. You know he is not looking—

**Hon. Mr. Elgie:** Let me interject. I also understood, Mr. Williams, from what you told me some time ago, that you were going to

require information on certain applications with respect to beneficial ownership.

**Mr. Williams:** That is true.

**Hon. Mr. Elgie:** Do you want to elaborate on that?

**Mr. Williams:** The form 2 application, which exists and which is a regulated form, is in the process of being revised in terms of appearance. There are a number of notes down at the bottom to landlords and tenants; they are not given significant prominence on that form.

However, it has also been a practice of the Residential Tenancy Commission in the past, where the documentation provided by the applicant was a little obscure, that we would obtain property search and corporate search information, whatever was publicly available. In that regard, the form is in the process of being revised now to require it as a matter of course, assuming the regulations committee will approve that.

In addition, we have almost completed the development of a disclosure document that will accompany the application form, particularly where a resale is involved. I suppose someone can refuse to comply with the disclosure document but, at that time, the commissioner in question can also consider refusing to consider the matter that is before him and disallow any claim for additional financing arising out of a resale.

In the past we have issued subpoenas and summonses under the Statutory Powers Procedure Act to require landlords and directors to appear before the Residential Tenancy Commission and to make disclosures with regard to beneficial ownership. In those situations to date those subpoenas have been honoured; not only that, but the landlords and directors in question have disclosed to us the information that has been required.

As a matter of interest, it turned out that in each of those situations it was proven to be an arm's-length transaction. If necessary, in the possible hearings that might come before the Residential Tenancy Commission, that same procedure could be followed.

**Mr. Peterson:** Have you had any applications from Kilderkin or Maysfield? Have you ever heard of Maysfield?

**Mr. Williams:** I have heard the name Maysfield.

**Mr. Peterson:** Have you had any applications from them?

**Mr. Williams:** We have 8,000 applications. To my knowledge, we have applications from Kil-

derkin in Ottawa with respect to three properties on Southvale Crescent. You seem to be aware that there are purchases involved in Kitchener and London. I am not aware of that. I do not deny it either. I just don't know.

**11:30 a.m.**

**Mr. Peterson:** Are you aware—and this goes back to the minister—that on October 16 there was a notice in a Cadillac Fairview building in the Rosebury Square complex, 145 Marlee, indicating that landlord management of that building would be going from Cadillac Fairview to Maysfield Property Management?

The reason that is significant is that Maysfield Property was the management arm of Kilderkin long before you had your meetings. In other words, there was obviously something in the wind. From that, you could conclude that there was some sort of relationship between Cadillac Fairview and Kilderkin, not just Greymac, because the management of that building, as I said, had been transferred at that time.

Maysfield originally started off as a numbered company and was incorporated on October 26. The application for amendment—I gather there were letters patent on November 3 or 4 to change it to Maysfield. The name was in use, but the incorporation was not there.

What I am suggesting to you is that there was sufficient prima facie evidence of a relationship between Kilderkin and Cadillac Fairview to give us further pause to investigate this entire situation. You will not be investigating those kinds of problems in your various investigations?

**Hon. Mr. Elgie:** I think I have outlined what our investigations involve, and the commissioner has indicated the kind of information they will be requesting. The fact that Maysfield exists was announced in a press release by Kilderkin when it indicated that was its management company. I don't know any more than that about the company.

**Mr. Peterson:** But I am giving you new information. You keep saying to me, because you don't seem to know, "Will you tell us?" Well, I am telling you. On October 16, long before this situation blew up, long before you got involved in it, notice was given to tenants that the management of that particular Cadillac Fairview building had changed hands. Were you aware of that, Mr. Williams?

**Mr. Williams:** No.

**Mr. Peterson:** Do you know of any other situations where Cadillac Fairview's management has passed into other hands, i.e. Kilderkin

and/or related companies? I assume you are building a very comprehensive file on Kilderkin, all its various appendages, numbered companies and associates? Is that not the object of your SWAT team?

**Mr. Williams:** The only file we have so far is a media file.

**Mr. Peterson:** All you know is what you read in the newspapers.

**Mr. Williams:** With respect to the Toronto properties. I informed you as well that we have recently received applications from Kilderkin with respect to properties they bought in Ottawa earlier this year.

**Mr. Peterson:** I heard you say that.

**Mr. Williams:** There are applications on file in Ottawa and we are forming a team to ensure that—

**Mr. Peterson:** That you don't get whipsawed.

**Mr. Williams:** That's right.

**Mr. Peterson:** And you are obviously worried about this Kilderkin thing that has popped up and is running around now in a variety of places: in Ottawa, and we have suggestions of Kitchener and London as well as Toronto. We do not know the extent of its involvement. We know it is kind of serious. And you are developing all this expertise inside this unit?

**Mr. Williams:** Yes.

**Mr. Peterson:** How long have you been doing that?

**Mr. Williams:** I am sorry?

**Mr. Peterson:** How long has this SWAT team been going?

**Mr. Williams:** The SWAT team is in the process of being formed now.

**Mr. Peterson:** When did you decide to do it?

**Mr. Williams:** Sunday night. I conveyed it to my staff Monday morning.

**Mr. Peterson:** Was this your idea or the minister's idea?

**Mr. Williams:** My idea.

**Mr. Peterson:** I want to ask the deputy, were you aware of these change of management contracts in the Cadillac Fairview buildings?

**Mr. Crosbie:** I was not aware of any specific change. During the discussions with Mr. Player, he mentioned the acquisition of the Cadillac management division. It was a separate transaction. He also advised me he was managing 9,000 units already.

**Mr. Peterson:** Who bought the management? Did the management division go directly from Cadillac Fairview to Kilderkin?

**Mr. Crosbie:** It is my understanding that the Maysfield Property Management Corp. you have mentioned was acquiring the management division of Cadillac Fairview.

**Mr. Peterson:** On what basis?

**Mr. Crosbie:** When I say "was acquiring," it may have already acquired it. I was not pursuing that line of questions at this time.

**Mr. Peterson:** So here is what we have got then: A direct transaction from Cadillac Fairview to Kilderkin on the management company, right?

**Hon. Mr. Elgie:** No. Not to Kilderkin, to Maysfield.

**Mr. Peterson:** Okay, Maysfield, which is owned by Kilderkin.

**Mr. Crosbie:** Or by Player.

**Mr. Peterson:** So we have a direct transaction to the management company, but we have a more circuitous route for the properties involved, that going from Cadillac Fairview to Greymac, then to Kilderkin and then to the numbered companies.

**Mr. Crosbie:** I cannot confirm that.

**Mr. Peterson:** I am just telling you. There are a lot of things you cannot confirm, but I am trying to help you.

**Mr. Crosbie:** You are speculating and I do not want to—you asked me if that is what happened and I am telling you I cannot confirm that.

**Mr. Peterson:** I am telling you I have got a hell of a lot better information than you have to draw some of these conclusions, because you are not prepared to draw them. You are not prepared to draw any conclusions. I am starting to draw some on the basis of the information we have sweated to find, and it appears we know more than you do.

What I am telling you now, and listen to this carefully, is that there is a direct relationship between Kilderkin and Cadillac Fairview. At the same time, Mr. Rosenberg goes into the minister's office and says he is dealing with Cadillac Fairview, between him and Greymac, and there is no suggestion of Kilderkin even being in the wings at that time. Does that not suggest to you that there is some sort of a relationship between Cadillac Fairview and Kilderkin in all this deal, and perhaps Cadillac Fairview or some of its principals were aware that Mr. Rosenberg and Greymac were going to

flip out these properties to other people? Does that suggest that to you?

**Mr. Crosbie:** I could suggest an equally valid alternative.

**Mr. Peterson:** Good. Tell me.

**Mr. Crosbie:** Cadillac Fairview may have entered into an agreement to sell their management division to Maysfield Property prior to entering into any deal or at the same time as it entered into the deal with Greymac, and there could have been two entirely separate deals. I have no evidence that they were not, just as I have no evidence it was not the alternative you have suggested.

Now if Cadillac in fact sold or agreed to sell its management division to Maysfield and subsequently Mr. Player made his arrangements with Greymac, it would give the appearance, if you did not know all the facts, of the suggestion you are making. I do not know which is true.

**Mr. Peterson:** Does the minister know?

**Hon. Mr. Elgie:** I do not have any comments other than those the deputy has made.

**Mr. Peterson:** Either one of those two theories could be valid. You could draw either conclusion.

**Mr. Breithaupt:** Will this be part of the investigation?

**Hon. Mr. Elgie:** There are a number of theories.

**Mr. Breithaupt:** Will we get answers?

**Mr. Peterson:** The point is it is not any part of the investigation and that is what is worrying us.

**Hon. Mr. Elgie:** I think we have to wait until we see the report from Touche Ross. I am not hesitant about proceeding when there is good evidence. You can't automatically assume something sinister.

**Mr. Peterson:** You can't. But I will tell you something, you can't automatically be naive, particularly with people—we have had some discussion of whether you were lied to, misled or what shade or proportions we put on that conversation, but there is nobody, including you, who has come out and said: "Mr. Rosenberg is a wonderful fellow and was forthcoming. We are very grateful to him for the way he has helped the government understand this deal." Nobody has said that.

I wanted to scare the minister yesterday and I asked, "Did you hear there is another Rosenberg brother?" He just winced.

**Hon. Mr. Elgie:** Again, that is your interpretation.



**Mr. Peterson:** It was just a joke, but I wish there was—

**Hon. Mr. Elgie:** Maybe my wince was a joke.

**Mr. Peterson:** As Mr. Breithaupt said, the Rosenberg brothers have done for your government what Frank and Jesse James did for the western banks.

I say to you that information was public prior to October 16. In other words, there was knowledge suggesting a relationship. Would that not suggest to you that bears investigation? Would it not suggest to you now that none of your three, four or five inquiries that are going on with limited powers and dealing with only certain aspects will answer those questions?

**Hon. Mr. Elgie:** As various information comes to light from stage to stage, through whatever process, we will respond in the appropriate way.

11:40 a.m.

**Mr. Peterson:** That is your whole mistake. You have been responding piecemeal from the beginning. You were the last to know. You trusted certain people you should not have trusted. Then you brought a calamity on yourself and on the government because you were not prepared to take the forthright position and say, "Let's find out." All you are going to see is more rumours, suggestions and innuendoes. Why don't you want to look into it?

**Hon. Mr. Elgie:** I have never been accused of not being willing to take forthright positions on issues, sometimes to my own detriment.

**Mr. Peterson:** I am accusing you of that right now. Maybe it is not you, maybe it is your cabinet. Maybe you could not run this through the cabinet.

**Hon. Mr. Elgie:** It was run through the cabinet.

**Mr. Peterson:** Let's look at your suggestion of looking at the whole thing.

**Hon. Mr. Elgie:** With respect, unlike you I like to take things to cabinet on the basis of facts I have at my fingertips that indicate there is some wrongdoing that needs review.

**Mr. Peterson:** Don't kid me about the facts. You have three inquiries going at this time.

**Hon. Mr. Elgie:** All the stuff you are telling us about is very interesting. I am sure it goes on every day of the week. Companies are formed and not formed, they know each other and they say "Hello." To attach something sinister to it in the absence of proof, I suggest to you shows a lack of responsibility, and I am not prepared to show that lack right now.

**Mr. Peterson:** You are proceeding with an investigation under section 152, presumably on the basis of certain suggestions or snippets of information that have come your way. If there was not some suggestion that something needed investigation there, you would not have the investigation. Don't play holier-than-thou in this situation.

**Hon. Mr. Elgie:** I am not playing holier-than-thou.

**Mr. Peterson:** Of course you are.

**Hon. Mr. Elgie:** I am just telling you that I believe I am acting appropriately and responsibly under the Loan and Trust Corporations Act.

**Mr. Peterson:** We think you are missing in this deal.

I gather you indicated in a press conference yesterday a new bit of information, that Kilderkin will post a security bond of \$125 million for the benefit of the Saudi investors. Is that right?

**Hon. Mr. Elgie:** Maybe my deputy, who had that meeting, can outline the details of that better than I can.

**Mr. Crosbie:** From the explanation that was given of how the leaseback management agreements that Mr. Player operates by Kilderkin are set up, it is my understanding that the investment—and this is not just in this particular deal; for a number of years Mr. Player has been marketing multiple-unit residential buildings and it appears that he has used the same technique.

**Mr. Peterson:** Does he have other buildings or is he just a straight MURB marketer?

**Mr. Crosbie:** He manages. He takes leasebacks on the MURBs. That is the way he operates. I understand that currently he is managing 9,000 units. The standard procedure explained to me was that the deposit, or the investment made by the investors in the MURB, or in this case the Saudi investment, although I am not sure that it is the full amount, but some significant portion of it, is put in escrow, in some trust account or invested in a term deposit of some kind and is held there as security for the performance of the leaseback management agreement.

**Mr. Peterson:** So he put up \$125 million.

**Mr. Crosbie:** That is the equity that is reported. I do not know whether all of that went into an account.

**Mr. Peterson:** Where did you find this out? Who told you?

**Mr. Crosbie:** Mr. Player.

**Mr. Peterson:** This was yesterday afternoon?

**Mr. Crosbie:** No, last Tuesday.

**Mr. Peterson:** You have known this for a while. Mr. Minister, you mentioned this in a press conference yesterday. Is it a bank guarantee? You do not know if the bank guaranteed it? You do not know if it is certain title documents and you do not know if it is cash or where it has gone?

**Mr. Crosbie:** No, I do not know where it has gone.

**Mr. Peterson:** Where did the money come from?

**Mr. Crosbie:** This was reported to be the \$125 million that was contributed by the Saudi investors.

**Mr. Peterson:** There is a further complication on this. In your judgement, \$125 million in new money came in through the Saudi investors.

**Mr. Crosbie:** Yes. That is my understanding.

**Mr. Peterson:** You are aware that those same Saudi investors, who presumably put equity money into the numbered companies, have a \$145-million mortgage with Greymac and the various companies. So \$145 million passed from various mortgage companies to those numbered companies. Is that right?

**Mr. Crosbie:** I am not sure I follow your last comment. My understanding is that the \$375-million wraparound mortgage incorporates the first, second, third and fourth mortgages.

**Mr. Peterson:** With a secret participation agreement, that you have not seen and we have not seen, between the various trust companies?

**Mr. Crosbie:** If it is secret and I have not seen it, I cannot say that it exists.

**Mr. Peterson:** Have you seen a participation agreement?

**Mr. Crosbie:** No, I have not.

**Mr. Peterson:** Does one exist?

**Mr. Crosbie:** I do not know. We do know that Seaway Trust Co. is participating.

**Mr. Peterson:** Do you know if Greymac Trust is participating?

**Mr. Crosbie:** No, I have not seen a document saying that.

**Mr. Peterson:** Do you know if Crown Trust is participating?

**Mr. Crosbie:** No.

**Mr. Peterson:** The \$145 million, which is the last part of the third wraparound mortgage—are we on the same wavelength?

**Mr. Crosbie:** Yes, I would say the difference between the first, the second and whatever remains.

**Mr. Peterson:** So they got a mortgage for \$145 million.

**Mr. Crosbie:** I am not sure.

**Mr. Peterson:** Look, we have searched the title, just so you know that is right.

**Hon. Mr. Elgie:** Those are the assumptions, yes.

**Mr. Peterson:** Where did that money come from?

**Mr. Crosbie:** Presumably \$76 million of it came from Seaway Trust.

**Mr. Peterson:** And it went into the numbered companies.

**Mr. Crosbie:** Not necessarily.

**Mr. Peterson:** Where did the money go? Who is the mortgagor?

**Hon. Mr. Elgie:** That is the kind of information Touche Ross is going to be looking for.

**Mr. Peterson:** Who is the mortgagor?

**Hon. Mr. Elgie:** I have not seen the mortgage document.

**Mr. Peterson:** Do you know who the mortgagor is? It is the numbered companies.

**Hon. Mr. Elgie:** They are the owners.

**Mr. Peterson:** They mortgaged out to those companies and they got \$145 million. Do you know what happened then? They took \$125 million of that and gave it to various purchasers. There is \$20 million missing in here somewhere, just so you know that. Your close friend Lenny might just have it.

**Hon. Mr. Elgie:** He is not my close friend.

**Mr. Peterson:** I have never met the man, so you are obviously closer to him than I am. There is \$20 million missing here somehow.

**Hon. Mr. Elgie:** There are degrees of closeness. Let's understand that.

**Mr. Peterson:** I have never met the Rosenberg brothers, I tell you right now.

You do not know who has mortgaged what and to whom.

**Hon. Mr. Elgie:** That was the purpose of calling in Touche Ross, to go over the whole mortgage arrangements, to get to the bottom and to identify what happened.

**Mr. Peterson:** You said there is \$125 million in new money from the Saudis, or so you were told.

**Hon. Mr. Elgie:** Yes.

**Mr. Peterson:** That is the money that is going into a security deposit by Kilderkin to the Arabs. Do you have any proof that there is \$125 million in new money coming into this country as a result of that?

**Hon. Mr. Elgie:** No, I have not. That is the sort of information I expect Touche Ross to submit.

**Mr. Peterson:** My concern is that you do not have enough power under section 152 to look at all the peripheral things. You have virtually admitted that. You can request certain documents from the various trust companies. To the extent that they have participated, presumably we can find out the truth. Whether you make that public or not is going to depend on your judgement at the time. I am just summing up here.

But you do not have the power and you are not prepared to give it to yourself—and I suggest you would have the power under the Public Inquiries Act to look through the corporate veil—you do not have the power to find the answer to a lot of the questions I have been asking you. As I said, I have a prima facie case that these are very legitimate questions that have to be investigated.

I guess I am repeating myself and I am going to ask you to repeat yourself. I do not see any reason for these not being thoroughly legitimate areas to explore. You should give yourself the power to do that.

**Hon. Mr. Elgie:** That may be. Those are determinations I will make once I have the information from the special examiner and if that information justifies any further examination.

**Mr. Peterson:** Have you had conversations with any Saudis? Nobody in your ministry talked to anybody and nobody knows who they are?

**Hon. Mr. Elgie:** True. We know there was a Mr. Qutub in town last week, that is all.

**Mr. Peterson:** I saw his picture in the paper too, but you did not talk to him and you have not had any confirmation? Was there a suggestion of anybody from the Saudi Embassy or Saudi trade emissaries or any of that kind of thing?

**Hon. Mr. Elgie:** Do you have any comment on that?

**Mr. Crosbie:** No, I have had no contact of that sort at all.

11:50 a.m.

**Mr. Peterson:** I just got a note from somebody saying the Financial Post said that Mr. Qutub talked to Ontario government officials. Do you know if he—

**Hon. Mr. Elgie:** As I understand it—and again it is information given to us by Mr. Mastin—he was here with respect to a company called Vulcan. There was a press clipping on that.

**Mr. Peterson:** Vulcan. I saw that. So he is obviously buying up other companies too.

**Hon. Mr. Elgie:** That was buying up a company. You have the press clipping on that. That meeting was not with me.

**Mr. Peterson:** A deal of this size generally goes through more official channels. And there are these mysterious individuals who have never, with the exception of Cadillac Fairview and possibly Mr. Qutub, played in this kind of size before, it seems to me.

**Hon. Mr. Elgie:** I can only tell you the information I know, and all I know is that there was information that he was in town with respect to a Vulcan Industrial Packaging Ltd. of Toronto.

**Mr. Peterson:** Yes. I saw that.

**Hon. Mr. Elgie:** It says it is 50 per cent owned by Explosafe America Inc., has signed an agreement with Adeeb Hassan Qutub, president of Integrated Consulting Engineers and Architects of Saudi Arabia, that could lead to manufacturing of the Explosafe explosion prevention system in Saudi Arabia.

**Mr. Peterson:** How can I ask you to look into and report back to us the sequence of the transactions, including the relationship between Cadillac Fairview and Kilderkin as it pertains to the management company and/or the extent of knowledge that they had about the flip? As we pointed out in the House yesterday, that first agreement said it was nonassignable. You said that \$270 million is quite a reasonable price. Then we found out it got flipped up to \$312 million and then to \$500 million. So how are we going to find out how all of that happened?

**Hon. Mr. Elgie:** I think the first thing we will have to await is the Touche Ross report, which I do not think will take very long; and, of course, if any other vital information comes to my attention in the meantime, I have no hesitation in sharing it with you. I have tried to be open



about it to date, but, as you say, it is a very complicated transaction and there are a number of aspects of it that require thorough investigation. That is why Touche Ross is in there.

**Mr. Peterson:** I am frustrated, but I guess there is nothing more I can do. I think there are so many facts, so much evidence, that suggest you are not going far enough.

**Hon. Mr. Elgie:** I think one should wait before one makes that statement.

**Mr. Peterson:** I will pass.

**Mr. Chairman:** Next speaker, the member for Etobicoke.

**Mr. Philip:** I will pass to our leader.

**Mr. Rae:** Thank you, Mr. Chairman.

**Mr. Epp:** Mr. Chairman, before you get into that, may I just ask a supplementary to what the Leader of the Opposition asked before? I noticed that when he asked the minister whether he had spoken to any Saudis he nodded his head but did not answer the question. I just wonder whether for the record—

**Hon. Mr. Elgie:** No, I have never spoken to any Saudis.

**An hon. member:** He shook his head, but he did not answer. He shook it sideways. Nodding is up and down.

**Hon. Mr. Elgie:** I am told that sometimes that means yes in some countries, but not in this country.

**Mr. Breithaupt:** I heard it means yes in Saudi Arabia.

**Hon. Mr. Elgie:** I have never even been there.

**Mr. Rae:** We could hear him shaking his head.

**Hon. Mr. Elgie:** There is an implication in that that noises take place when I shake it, and I object to that.

**Mr. Rae:** You are the neurosurgeon. You know what is in there. God knows, I don't.

**Mr. Peterson:** I just want to ask a question of Mr. Williams and then I will pass. When there is a real estate transaction, the lawyer will generally write a letter to the Residential Tenancy Commission, I am told, asking about the status of the various buildings and if there are any hearings or anything outstanding, just as a comprehensive check. Is that right?

**Mr. Williams:** Prudent lawyers do that. Yes.

**Mr. Peterson:** Did you have any letters from any of the lawyers acting for any of the people in

this series of flips asking the status of those hearings?

**Mr. Williams:** Yes.

**Mr. Peterson:** Would you tell me who they are from and what they told you?

**Mr. Williams:** Just let me consult with my staff, please. Yes, sir, I have that information.

**Mr. Peterson:** How many letters did you receive?

**Mr. Williams:** To my recollection, two. They were not directed directly to me, but I am aware of two letters, each from different firms.

**Mr. Peterson:** From whom, acting for whom?

**Mr. Williams:** In each case, they were acting on behalf of Greymac but in respect to different properties. We had an inquiry from Prousky and Biback and an additional inquiry from Gordon, Traub, Rotenberg and May.

**Mr. Peterson:** Were those letters with respect to individual properties?

**Mr. Williams:** Yes, a package of properties in each case.

**Mr. Peterson:** Like five or six various developments?

**Mr. Williams:** That is correct.

**Mr. Peterson:** And when did you receive those letters?

**Mr. Williams:** I cannot answer that right now.

**Mr. Peterson:** What are the dates on them?

**Mr. Williams:** I do not have the letters with me. I am speaking from recollection; about a month ago, though.

**Mr. Peterson:** Those letters said that Greymac Credit was contemplating buying these buildings from Cadillac Fairview?

**Mr. Williams:** I do not want to answer that because I cannot recollect the terms, whether it was Greymac Credit, Greymac Mortgage, or just Greymac Corp. or whatever.

**Mr. Peterson:** Did you do anything further with that? Did you report to the minister? Did you say, "There are some big transactions going through on Cadillac Fairview"? There were whispers around then, as you will recall.

**Mr. Williams:** No. This was after the initial publicity that Greymac was buying it. The inquiries came in from the law firms after the initial publicity surrounding the sale from Cadillac Fairview to Greymac. The letters of inquiry simply asked whether we had any outstanding orders in respect to any of these buildings. They gave lists of the various buildings.

**Mr. Peterson:** Did you think there was anything untoward or anything you should have brought to the attention of the minister, because obviously it was heating up at that time and there was a great deal of publicity surrounding this transaction?

**Mr. Williams:** Cadillac Fairview had announced earlier that it intended to sell all its residential properties. In fact, we were aware that they had sold a few of them one at a time, up until that point.

With the announcement that Greymac was going to be the purchaser of a large number of buildings, we subsequently received these letters of inquiry from two different law firms acting on behalf of one of the Greymac firms. I cannot confirm for you at this moment which Greymac company it was. Nevertheless, we saw it as an ordinary, prudent transaction on behalf of the potential landlord determining whether there were any orders outstanding with respect to the buildings he was going to buy.

**Mr. Breithaupt:** Is this the kind of routine letter you get?

**Mr. Williams:** Yes, it is.

**Mr. Peterson:** Let me ask you this question. Could Greymac have handled the deal on its own? Let us suppose it had not had these extra purchasers in the wings to finance the whole deal. It looks like Greymac never put up a cheque; it just washed right through the company. Supposing Greymac was the end purchaser, could it have financed the deal?

**Mr. Williams:** I have no idea. I had never heard of Greymac until it was announced that it was the purchaser. But that does not mean anything; there are a lot of corporations I have never heard of.

**Mr. Rae:** Mr. Chairman, I want to go through the chronology briefly with the minister again and ask some questions about the audit which Touche Ross will be performing.

**Mr. Chairman:** The minister has a bit of a problem here. He thought we were just going to be dealing with the clause by clause.

**12 noon**

**Hon. Mr. Elgie:** I do not mind staying but it inconveniences other people.

**Mr. Rae:** I was due to be at another meeting at 11:35 a.m. so I have missed that one. I do not know what is going to happen.

Tell Leonard you will see him this afternoon.

**Hon. Mr. Elgie:** What a joke. What a sense of humour.

**Mr. Chairman:** Mr. Williams. You look a little—

**Mr. Williams:** I realize I am a servant of this group, however I do have another commitment myself. Could you advise me how long we will be.

**Mr. Rae:** Let me make it clear to you, Mr. Williams, that for the duration I am going to be directing my questions to the minister and I know that you—

**Mr. Chairman:** I think all of us in the committee would agree to thank Mr. Williams for his attendance.

**Mr. Breithaupt:** I certainly agree and wish him well.

**Mr. Rae:** I hope your doctor is opted in.

**Mr. Williams:** I hope he is not a landlord.

**Mr. Breithaupt:** I hope he is not a tenant.

**Mr. Rae:** They wish he is not a tenant. It depends on your point of view.

**Interjections**

**Mr. Rae:** For 10 minutes, having heard your supplementary, could I ask the minister if he knew that in February of 1982, Cadillac Fairview shareholders were told that the company intended to sell 15,000 units?

**Hon. Mr. Elgie:** I understand that announcement was made. I do not know the details.

**Mr. Rae:** On September 15 the sale to Greymac was reported and it was supposed to be closing on November 16.

It has now been established that on October 7, 14 and 19, 39 numbered Ontario corporations were established which would now appear to be the ultimate owners of this property.

First of all, did the minister know when those numbered companies were established?

**Hon. Mr. Elgie:** No. I understand from the lawyers that it is not an uncommon practice for firms that are in the business—

**Mr. Rae:** To have them on the shelf—

**Hon. Mr. Elgie:** To have them on the shelf, yes. I wouldn't be aware of them. There are numbered companies formed every day, I suspect.

**Mr. Rae:** Evidently.

**Hon. Mr. Elgie:** Usually, as I understand it, they also eventually get turned into a name but not all.

**Mr. Rae:** There are several names one could ascribe to these companies but we will leave that to the imagination. This chronology is important I think and I am concerned with our

getting behind the chronology and being able to cross-examine several people: Mr. Qutub, Mr. Rosenberg, Mr. Player, Mr. Mastin, and Mr. Desmarais, who would appear to be the director whose name is on a number of these companies as is Mr. Mastin's name. I gather these are only two names that we have at the moment as to these companies. Is that correct, Mr. Crosbie?

**Mr. Crosbie:** Yes, I believe so.

**Mr. Rae:** Mr. Mastin and Mr. Desmarais are the only two names that we have. Have you met with Mr. Mastin or Mr. Desmarais?

**Mr. Crosbie:** I have met with Mr. Mastin, yes.

**Mr. Rae:** I am concerned about the powers that are being given to Mr. Morrison, whether they are adequate to, in fact, find out what happened with these transactions.

In your statement on pages 12 and 13 you outline Mr. Morrison's appointment. I presume that there are other documents available as to exactly what purview and precisely what you have requested of Mr. Morrison. Could you table those with the committee?

**Hon. Mr. Elgie:** First of all, may I ask the deputy who is dealing with this, whether there are any documents relating to it, or is it simply—

**Mr. Crosbie:** We are in a preliminary stage now of reviewing with Mr. Morrison and the financial institutions staff, the precise terms of reference that will be necessary.

**Mr. Rae:** So we do not have terms of reference yet?

**Hon. Mr. Elgie:** No.

**Mr. Rae:** I will tell you precisely what my concerns are. You say you have appointed Mr. Morrison "of the firm of Touche Ross to make a special examination and audit of the books, accounts and securities and to inquire generally into the conduct of the business of the several trust companies in providing mortgages for the Cadillac Fairview sale." And you say he will have the powers of a commission for the purpose of his examination audit and inquiry.

My first concern is that—

**Hon. Mr. Elgie:** That wording is right out of the statute.

**Mr. Rae:** I know, and I am just saying that under section 152, Mr. Morrison has the ability to make inquiries of several trust companies. I am still not convinced that he has the ability to ask questions and to get answers from a number of other companies and individuals who are clearly involved in this deal.

**Hon. Mr. Elgie:** Would you comment on that, Mr. Crosbie?

**Mr. Crosbie:** I would think that in the process of determining the questions relating to the value of the mortgages, it will be necessary for the mortgage companies to adduce evidence concerning the nature of the whole transaction, because that goes to the root of the question of the value of the property, how the value was determined and whether the \$500 million value reflects, if you will, built-in financing costs of the mortgage, the lease buy-back arrangements, or whether, as has been suggested here this morning, it involves money required for some other purpose.

**Mr. Rae:** The timing of these things is important, and who knew the real intentions at what time. Who did Cadillac Fairview really think they were selling to? What exactly were their intentions? I do not see in Mr. Morrison's purview, his inquiry, an ability to cross-examine people and to get that kind of information out on the table. I think that if he tried to do that, the lawyers for Cadillac Fairview and counsel for Cadillac Fairview, being very able counsel, would be objecting very strenuously to certain questions being asked and certain information being sought.

This investigation is not going to be a tea party. It is going to be a very tough business because some people have got a lot to hide and they are going to be attempting to hide it. That is why the powers of Mr. Morrison are very important.

If I may just refer to one other remark in your statement which gives me cause for some real concern, you say on page 13, the second to last page:

"I would like to say that some of the companies involved in this series of transactions have offered to provide us with their full co-operation and I do not expect the section 152 review to be a lengthy matter."

"Some of the companies involved," implies to me that some others have not indicated they are prepared to co-operate. Can you tell us which companies have said they will co-operate and which companies have said they will not?

**Hon. Mr. Elgie:** Will you comment on that, Mr. Crosbie, since you have had the discussions?

**Mr. Breithaupt:** What if they change their minds?

**Mr. Crosbie:** It was in our discussions with the representatives of the Kitamura, Yates and Margolis firm and with Mr. Player and Mr.



Wilson, who was representing Mr. Player and Seaway Trust that we were given assurances that any information we needed concerning the transactions would be made available to us.

**Mr. Rae:** What about Leonard Rosenberg? Have you asked him whether he is prepared to co-operate?

**Mr. Crosbie:** No, we have not discussed—

**Mr. Rae:** Why not?

**Mr. Crosbie:** We were not at a meeting with Mr. Rosenberg when this offer was made.

**Mr. Rae:** Let me put this to you: This is the guy who went into the minister's office and told him a series of stories about magic carpets and refurbishing and another song and dance which would appear to bear no relationship to what in fact was transpiring. In fact, if you look even at the statement which people have made to the press, as soon as Greymac bought Crown Trust on October 12, the word was out in the market that they did not have the bucks to pay for the property they said they were going to pay for in terms of Cadillac Fairview.

**Mr. Haggerty:** Where would Seaway Trust get the money?

12:10 p.m.

**Mr. Rae:** I come back to this question. With great respect to the minister and to his deputy, Mr. Crosbie, how can they be sure that the audit being performed on some trusted mortgage companies by Mr. Morrison grants him and his inquiry sufficient power to really get at the total facts of this situation? You seem to be relying on verbal statements made by one lawyer or another saying, "Sure, I will co-operate." What does co-operation mean? You cannot rely on that when you are in the middle of an inquiry that, as I say, is not going to be a tea party, is not going to be pleasant, is going to raise some very basic questions about how these transactions were conducted.

I really question whether you appreciate the difficulties that are going to be involved in getting to the truth of the matter. You have already indicated that nobody has the power to find out who owns any of these companies. We do not know who the beneficial owners are of any of the companies involved.

**Hon. Mr. Elgie:** I can simply suggest that if there is not that degree of co-operation, and to date we have no indication it will not be there, that is clearly why the powers under the Public Inquiries Act, Part II, are there. Certainly my

position is I would like to wait until I receive that report to see exactly what they do find out.

**Mr. Rae:** With respect, sir, you are appointing Mr. Morrison under the Loan and Trust Corporations Act. The jurisdiction the auditor has is confined to the subject matter and the jurisdiction of that act. You have not appointed a public inquiry commissioner. Let us be very clear about that.

**Hon. Mr. Elgie:** I never said I had.

**Mr. Rae:** No, but this is why invoking the Public Inquiries Act is slightly misleading in terms of the powers this commissioner has overall. This individual, this auditor, has the ability to go in and audit books of companies that are covered under the Loan and Trust Corporations Act only. He does not have the ability to audit or to make inquiries of any company that is not covered under the Loan and Trust Corporations Act. I stand to be corrected, but that is my reading of it. Certainly, if I was counsel for one of these individuals, I would say, "It is all very interesting, but you do not have any power to ask me any questions."

**Hon. Mr. Elgie:** I would ask Mr. Crosbie to repeat what he envisions as the power they will have. Could you run through it again for me, Don, so that—

**Mr. Rae:** It is what the courts think, if I may say so, as much as what Mr. Crosbie thinks.

**Mr. Crosbie:** We contemplate that, in the process of determining the value of the mortgages or the value of the property for mortgaging purposes, it will be necessary to examine the details of the transactions under which the mortgages arose. If we are put into a position where the only evidence concerning the value of the mortgages is evidence held by a third party that is not subject to the loan and trust provisions and there is some evidence of impropriety or wrongdoing at that time, then we will have to look at additional remedies.

**Mr. Rae:** With great respect, you are talking about apples and I am talking about oranges. You are talking about a very particular, confined study by an auditor with respect to the valuation of property. We, in our party, are talking about an investigation of an entire transaction starting at a particular time and ending at a particular time, attempting to discover who did what to whom and at what point an individual was misleading a minister of the crown.

I may be old fashioned, but I happen to think that when somebody, who is a president of a

company that has fiduciary obligations which are profound, makes statements to a minister that are misleading, it is the task of the minister to find out whether that was true at that time. It is also the task, I would suggest, for purposes of speculation in land and speculative investments, with people simply making five phone calls and, as a result, realizing a profit of \$100 or \$150 million. I do not simply find that offensive: I think it should be illegal and the fact that it is not illegal is what is wrong with this thing. Not the fact that the transaction is legal, it is the fact that the transaction is illegal which I find particularly offensive.

I want it said for the record that the government has failed to appoint the kind of public inquiry commission that would get at the problem and get at the issue. Instead the government has confined itself to a very narrow question, which is not going to resolve and not going to find the answers to the questions that we want to have answered.

**Mr. Breithaupt:** Your presumption, I take it, is that all the documentation from other companies or borrowers, in effect, is going to be found in the loan and trust corporations files, everything that you expect you would necessarily have to have to prove the value of these mortgages. If that is not the case, what pattern are you going to follow to expand the net for documents or other information?

**Hon. Mr. Elgie:** I think it is difficult to start predicting what you are going to do; but, as the deputy has said, we believe that the commission will be looking into the transactions, and I would like to see what their report is before I make those determinations. Clearly we have indicated what we see as their role, and I will await their report to make those decisions.

**Mr. Breithaupt:** If that report shows that other material is not available because of the terms of reference, you will have the opportunities, then, to deal either with a public inquiry or, from your point of view, you have other options open to get what you believe you may need to resolve the questions that are being asked.

**Hon. Mr. Elgie:** I will have to consider the options once I have further information.

**Mr. Breithaupt:** Just to give you an example: In the affidavits made by Mr. Desmarais on November 3, as president of the 39 numbered companies, he states that Cadillac Fairview received a consideration of \$400 million or \$500 million, depending on whose calculations you

accept. Then if one looks at the October 28 affidavit of Mr. Kirk, a senior vice-president of Cadillac Fairview, which states that Cadillac Fairview will receive \$270 million as a purchase price, the discrepancies there alone are rather staggering.

How will we be able to get into the details of that sort of arrangement? Do you expect that the terms of reference given now for the accounting investigation and review will be able to deal with points such as that?

**Hon. Mr. Elgie:** Would you comment on that, please?

**Mr. Crosbie:** I am not sure right now what the specific method of dealing with that question is, because until the reason for the discrepancy is explained or we give Mr. Desmarais a chance to explain the discrepancy, we do not know what we are going to be dealing with. It may very well be that there is some confusion in the drafting of that affidavit. The first statement is what Cadillac Fairview got, and the second is the consideration that was paid later in respect of the same transaction that never got through to Cadillac Fairview. One of the concerns we are looking at is just this whole question of the land transfer tax affidavits, whether or not they are accurate in denoting the financing charges, mortgages and purchase price of the various parcels of land described in them.

**Mr. Breithaupt:** Another theme that is the kind of thing I presume will be investigated is the entire concept of this wrap-around mortgage situation. When you look at the subject Properties Mortgaging, the first one includes the outstanding first mortgage assumed, the vendor take-back mortgage to Cadillac Fairview and a third mortgage to Seaway Trust or Greymac Trust. The second wrap mortgage is in favour of Kilderkin Investments for an amount \$10 greater than the wrap prior mortgage. Here we have a blanketing form of documentation, which is not ordinarily used, I think it is fair to say.

**Mr. Crosbie:** I think on that point that this has been a standard financing technique used by Kilderkin.

**Mr. Breithaupt:** In their way of dealing with the project.

12:20 p.m.

**Mr. Crosbie:** Yes; they put themselves in the position of the owners and manage the properties. They assume all responsibilities for the collection of revenues and the paying of all costs

associated with the management of the property. The Saudi investors really are standing well back from the situation; that is the way it has been described to me. So that Kilderkin is in there managing all the mortgages, and will be managing rents received. Whatever arrangements he has with the Saudis, any payment or compensation they get out of the arrangement, he would also take care of that.

**Mr. Breithaupt:** There are many other questions which may well have to wait until the completion of the publication of the reports that the minister is going to receive in the pattern of the investigations he has set up. I think that is

really all that I can usefully ask at this time. I think Mr. Philip has some questions.

**Mr. Chairman:** Mr. Swart is the next speaker. We moved Mr. Philip down to the bottom of the list when he deferred.

**Mr. Philip:** My understanding is that the minister has a luncheon engagement. I am prepared to hold off my questions until two o'clock.

**Mr. Chairman:** It is probably an appropriate time to adjourn. We will come back at two o'clock.

The committee recessed at 12:21 p.m.

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No. G-4

# Legislature of Ontario Debates

## Official Report (Hansard)

**Standing Committee on General Government**  
Estimates, Ministry of Consumer and Commercial Relations



**Second Session, Thirty-Second Parliament**  
Wednesday, November 17, 1982  
Afternoon Sitting  
Speaker: Honourable John M. Turner  
Clerk: Roderick Lewis, QC



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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Wednesday, November 17, 1982**

The committee resumed at 2:07 p.m. in committee room 1.

### ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

**Mr. Chairman:** I see a quorum.

On vote 1508, residential tenancy program; item 1, Residential Tenancy Commission:

**Mr. Philip:** I thought, Mr. Chairman, out of fairness to the other members of the committee and following the routine you followed this morning, that perhaps I could speak for a certain time, and then let some other members speak and you could put me back on the list.

**Hon. Mr. Elgie:** Mr. Chairman, could we ask Mr. Hermant and Mr. Chadha to come up to the desk?

**Mr. Chairman:** Yes.

**Hon. Mr. Elgie:** Maybe they would introduce themselves and identify themselves.

**Mr. Hermant:** I am Aaron Hermant, I am senior legal counsel.

**Mr. Chairman:** Mr. Chadha, would you like to come up too?

**Mr. Swart:** Mr. Chairman, on a point of order, I realize we have to continue to discuss the issue of this morning, but before the afternoon session is over I presume we would all want to spend a bit of time on rent review in general, apart from the Cadillac Fairview Corp. Ltd. matter.

I just wanted to raise that at this time to see if there is some general agreement on that. We can play it by ear as we go along, but there are a number of issues I want to raise which are not directly related to that.

**Mr. Chairman:** We have roughly two and three quarter hours left on the Residential Tenancy Commission, not specifically on Cadillac Fairview. When you are ready to go, just speak on anything you want to.

**Mr. Swart:** It seems to me, Mr. Chairman, that we should separate the two to some extent. We can deal with the Cadillac Fairview-Greymac issue, but try to keep it separate from the

statement by the minister in the House, rather than jumping back in and out.

**Mr. Chairman:** It seems to me that Cadillac Fairview received a pretty full hearing this morning. Whether Mr. Philip or any other members want to get back into that again, I have no idea.

**Mr. Swart:** I have a couple of matters I want to raise on that.

**Mr. Chairman:** It does not matter to me, and I do not think it matters very much to the minister. He is here to answer questions and discuss problems dealing with the Residential Tenancies Act.

I agree with your suggestion, Mr. Philip, to put you on for half an hour, move on to someone else and then come back to you and put you down for a subsequent speaker.

**Mr. Philip:** I do not want to deal directly with the Cadillac Fairview matter, but I would like to deal with what seem to be some policy directions that are a result of the minister's response to the Cadillac Fairview matter that will affect other people.

The bottom line is we are still faced with a situation in which—notwithstanding the course of action the minister is taking—tenants are still, under his proposed system, going to be paying for the purchase of buildings by landlords. I am sure the minister would agree there is nothing in his proposals that would stop that. It would stretch it out to five years, but there is that pass-through. Although the buildings can be flipped less frequently, none the less they can still be flipped, and that pass-through will go on to the tenants.

**Hon. Mr. Elgie:** May I comment on that assertion?

**Mr. Philip:** I am going to add to that, but as you wish.

**Hon. Mr. Elgie:** I would suggest to you that the very issue the Touche Ross and Co. study is looking at is the value of those properties. If the valuations are not as recorded, then there would have to be some public policy determinations made with respect to what tenants should be expected to carry.

So I do not think you can make that assertion at this time. That is a matter that will have to be considered when we have the detailed information. I am sorry to interrupt you.

**Mr. Philip:** That leads in very nicely to the point that I would make to this minister, but perhaps more damningly to his predecessor and the predecessor before that. Is the flipping of buildings and the heavy costs to the tenants through capital gains a new phenomenon? We have been pointing out, not just to this minister but more particularly over the last few years to his predecessors, that this was the major central problem in the rent review system.

I would like to comment on the minister's letter of September 3 to Mr. Kesbar in which he says: "Before the current legislation was drafted, an all-party committee of the House studied these and other landlord-tenant issues. In its report of June 1978, recommending the criteria by which rent increases should be considered, a majority of the committee supported the acceptance of the financing costs arising from acquisitions as grounds for a rent increase. The committee's recommendation was incorporated into the draft legislation proposed by the government later that year, but with one further refinement which a majority of the House found acceptable. This was to limit consideration of such costs only to the extent necessary to prevent the new landlord from suffering a financial loss."

It was an all-party committee but, none the less, we had expressed grave concerns. In item 2 of the minority report tabled in 1978 we pointed out, and I would remind the minister: "Point 6(b)(7) in the report allows the pass-through of financing costs that result from the sale of a property. In our position we argued that the rent review program should be neutral with respect to the way a building is financed and the inclusion of financing costs for pass-through is a major loophole of the present program and we do not feel that the committee's position is adequate to close it."

What I am saying is, in tabling this letter and providing members with copies, it implies somehow that all three parties agreed with that position. In fact, we, in our minority report, had pointed out that this was a major problem we would be and are facing. The position we are in now today is, in some way, the responsibility of both the Liberals and Conservatives who did not see fit to accept that admonition at that time.

**Mr. J. A. Taylor:** At that time there was a

minority government and it took two parties, remember that.

**Mr. Philip:** And the Liberals clearly voted with you people. For them to attack the Conservative government for a position they joined the Conservatives in I find to be slightly ironic if not—well, I won't use the other word that came to my mind.

**Mr. J. A. Taylor:** Shocking, I think would be a temperate word for you to use.

**Mr. Philip:** I always try to be temperate.

It further goes on to say: "I am satisfied that the legislation's treatment of this particular issue and the commission's practices in support of the legislation are fair and represent a reasonable balance between the interests of landlords and tenants."

That was September 3. I assume, by the minister's action, that he doesn't hold that view today. Is that correct?

**Hon. Mr. Elgie:** It would be the view that the bill was passed in a minority House and that certain principles were accepted. I still hold that view. I asked the commission to look at their guidelines in the light of evolving circumstances to see if anything needed to be addressed. They have, and I think there is a capacity here to accept change as the circumstances present themselves.

I know you are obliged to put forth your position, as you did at that time, but I do not think there is anyone, including you—because I understand you agree with the principle—who would say the program in place does not encourage the sale of property. It does. The only way profits are going to accumulate is in the equity that one has in the property. You know that. Your suggestion here would say there should neither be an equity in property accumulating nor should there be any consideration given to return on investment. It is an unique position.

In any event, that is an issue Commissioner Thom will be looking at in trying to achieve a balance, if there isn't any there now. To suggest that people should not purchase properties—

**Mr. Philip:** With the greatest of respect, you know perfectly well we have not said that people should not purchase property or that people should not have the right to sell property. We question whether or not tenants should pay for buildings being bought over and over and over again. That was clearly our position in 1978 when we talked about the financial pass-through. It is not the sale of the property, but rather the pass-through and the effects and the



extent of that pass-through that we pointed out at that time and that we are pointing out today.

I am suggesting to you that you changed your position in the last paragraph, in which you said, "and I am satisfied that the legislation's treatment of this particular issue and the commission's practices in support of the legislation are fair and represent a reasonable balance between the interests of the landlord and tenants."

Is it not true that you have now changed your position on that?

**Hon. Mr. Elgie:** I think it is fair to say that circumstances have now arisen that make it clear that those issues have to be reviewed in the light of the multiple resales that have occurred in this particular situation. Whether or not those multiple sales produced a value determination that is appropriate or not is a matter that is being looked at by Touche Ross, assisted by an able counsel.

**Mr. Philip:** Are you suggesting the conditions that are true today, or the problems that exist today, did not exist, or you were not aware of their existence, on September 3 when you wrote that statement that everything was going fine?

**Hon. Mr. Elgie:** I think there is good evidence that the commission was examining the arm's length nature of transactions that were taking place before. They have demonstrated in a recent decision that where there was not evidence of that kind of relationship, the costs were not allowed. In a general way, the system appeared to be working in a way that had been contemplated when the bill, when it was drafted under a minority government, was promulgated and put into effect.

**Mr. Philip:** Is it not fair to say that you knew before the Cadillac Fairview incident of a number of buildings that had been flipped? I am thinking of such buildings as PHI International which went from PHI to Barney River Investment Ltd. to Lord knows what trust company and were sold and resold and so forth several times. Your Residential Tenancy Commission knew about them.

I brought Steveston Investments to your attention, in which there was over a 6,000 per cent profit or capital gains in something like eight months. You had countless other examples which were sent to you or your predecessor through the various briefs of the Federation of Metro Tenants' Associations. Yet, in spite of all that, everything was fine on September 3. It took the Cadillac incident to suddenly alert you

to the fact that something was wrong and that some action should be taken.

My question is: where were you and your predecessors all these years when people were telling you this was going on? Why does it take Cadillac to get you to take some action?

**Hon. Mr. Elgie:** I think it is clear from what you've heard today—and I don't suggest you are intentionally trying to avoid recalling it—from the chairman of the commission that I had discussions with them during the summer, in which I asked them to review their administrative practices in the light of circumstances that were presenting themselves to them.

They had meetings in September, and they have had further meetings. A result of those meetings was the initiation of the consideration of matters that the tenancy commission was hearing, which led to the resolution you heard about yesterday in the House.

2:20 p.m.

**Mr. Philip:** Is it not also true that your meeting with them centred primarily along the lines of investigating whether or not there was a need for conflict of interest rules, rather than the specific issue of what to do about financial pass-throughs?

**Hon. Mr. Elgie:** Conflict of interest issues were resolved—correct me, but I believe it was last April or May, when the tenancy commissioners themselves signed voluntary agreements with respect to not appearing before the commission. It was at the same time that the government adopted the policy in cabinet that appointments to the commission would have that built into their appointment.

**Mr. J. A. Taylor:** The word "flip" has been used. I am not sure what its meaning is. Does it mean it has been sold? Is there a connotation it has been sold more than once, within a short period of time? Is there a further connotation that it was sold, not at arm's length, a number of times in a short period?

It is not clear to me when you use the word "flip." It might be helpful if that could be clarified. The other clarification that you may be able to make, Mr. Chairman, is whether—

**Mr. Philip:** Are you asking the chairman or are you asking me?

**Mr. J. A. Taylor:** I am asking the chairman; he can either answer himself or redirect the question to you or whoever has the answer.

My other question in terms of that situation is whether implicit in "flip" is a capital appreciation or realization of capital gain which is

subject to taxation, income tax, assuming that a person who is doing the "flipping," if I can put that word in inverted commas, is in that business. If he was not, I suppose there would still be either a capital gain or income.

Is that implicit in all of those transactions, Mr. Chairman? I am not clear on what is involved when you use a simple little word like "flip." I used to think it was a coin that one flipped; now we are flipping buildings. It boggles the imagination.

**Mr. Chairman:** Mr. Taylor, I have never used the term "flip."

**Mr. J. A. Taylor:** I know you would not—

**Hon. Mr. Elgie:** What about the term "flop?" Do you use that?

**Mr. Chairman:** I have used the odd flop. Mr. Philip, perhaps you could explain what "flip" means so that we all understand.

**Mr. Philip:** I am tempted to suggest that the members should put the question on the Order Paper and I will answer it in three years when I have the authority to.

**Mr. J. A. Taylor:** It would take you that time to think it out maybe.

**Mr. Philip:** Obviously, what we are talking about is the sale and resale of either buildings or options on the purchase of buildings and the making of a capital gains—and yes, capital gains are taxed. I am sure you are familiar with the federal income tax laws.

**Mr. J. A. Taylor:** Now by "flip" you said sales. Is it a single transaction, would that be included in your comments?

**Mr. Philip:** When I say a single transaction I usually use the word "sale." "Flip" to me means a series of transactions.

**Mr. J. A. Taylor:** I see, within a short period of time.

**Mr. Philip:** I hope that satisfies you. If you are going to ask me any more questions, I am going to demand part of the minister's salary.

**Hon. Mr. Elgie:** How about the amount I have to pay for dog food for my dog. Will that do?

**Mr. Chairman:** I think we all understand what "flip" means now, so you can continue, Mr. Philip, please.

**Mr. Philip:** The minister admits that we did warn him or his predecessor in 1978; he suggests that he called for the Residential Tenancy Commission to review a number of matters, when, six months ago?

**Hon. Mr. Elgie:** I believe it was August or July, I cannot recall which month it was. Let me respond to that. That implies that nothing was going on in the meantime. You know very well that the first thing that faced me when I became minister—and Mr. Hermant can verify this—was the Residential Tenancy Commission, whose work load was increasing dramatically and which required increased funding.

My first effort after resolving the issue of conflict of interest was to pursue that, and interim funding for that increase was received in May. The amount of funding still was not adequate, so the commission directed a great deal of its time and effort to present me with documented confirmation of its needs. I then took it through the appropriate channels and in October received a further increase in funding of \$2.5 million.

In the interim, I was also having meetings with a series of tenants and landlords to hear from them the kinds of problems they were having. Following all of those meetings, and following consideration of the issues myself, I met with Mr. Williams and perhaps Mr. Hermant—I cannot recall if he was there or not—to ask them if they would direct their attention to any problems they saw arising in the application and administration of the act. That is what they did.

So, if there is any suggestion of not being interested in the functioning of the commission as well as the policy directions of the commission, I have to tell you that is not accurate.

**Mr. Philip:** At that original meeting with the Residential Tenancy Commission, with Mr. Hermant and Mr. Williams, I wonder if you would just review with us or list the specific items you advised them to study and to report back to you.

**Hon. Mr. Elgie:** It was not that kind of a meeting where the minister says, "Here are the problems I want you to resolve." It was a matter of asking them to sit down with their commissioners and gather together things they thought would merit consideration. I suggested they have—as they did in September, I believe—a two-day session to go over all those issues with the commissioners to consider areas they should look at.

**Mr. Philip:** So it was no more than any other minister would have done in taking over a portfolio; meeting with key public employees and the heads of tribunals under that ministry and saying: "Why don't you guys get your heads

together? In a little while we will have a meeting and you tell me what the problems are."

**Hon. Mr. Elgie:** If you mean was I Roger Ramjet riding a white horse, no, I was not, but I was a thoughtful, concerned minister encouraging a commission to look at issues that were being presented to it.

**Mr. Philip:** But there were no specific instructions to them that one of the considerations be the problem of the financial pass-through and the effect on tenants?

**Hon. Mr. Elgie:** That is one of the issues we discussed and that is one of the issues they directed themselves to.

**Mr. Philip:** I am not asking whether you discussed it, I am asking you whether or not you advised them to look into this and to report back to you.

**Hon. Mr. Elgie:** One of the items discussed was the issue of whether financing costs should be phased in over a longer period, because that was an issue raised to me by the Federation of Metro Tenants' Associations. It was an issue that the commissioners, already having a three-year phase-in period, were already aware of. They agreed it was a matter they would consider, as to whether or not other options were reasonable and practical and equitable.

**Mr. Philip:** So one of the items you did instruct them to—

**Hon. Mr. Elgie:** It is not a matter of the minister telling them what to do. It is a matter of the minister discussing with them what the areas of consideration might be.

**Mr. Philip:** But a discussion with a minister is more than a beer with the local president of the football league. When the deputy minister meets with the minister he is looking for some direction and I assume you met for more than to have a cup of coffee and chit-chat.

What you are telling me now, if I hear you correctly, is that one of the items under discussion at that time was the—

**Hon. Mr. Elgie:** Mr. Chairman, if I may, Mr. Philip—and I say this with respect because I understand he has a very important job to do as a member of the opposition and as a critic—is not going to get me, neither do I behave in such a way that he is going to get me, in the position of saying that I direct the commission what to do. I have discussions with them about what to do. You can phrase it in whatever way you want, but those are the issues and those are the facts.

**Mr. Philip:** What were the other items you suggested they might study? You talked about financing pass-through—

**Hon. Mr. Elgie:** I did not have an agenda. The items were not listed. It was a to and fro discussion about matters and I cannot for the life of me recall who suggested what, or who considered what to be a particular matter they might address themselves to. In any event, they addressed themselves to certain issues.

2:30 p.m.

**Mr. Philip:** Mr. Hermant, you were at that meeting. When you went away you obviously thought that you had some job to do, something to study.

**Mr. Hermant:** Yes.

**Mr. Philip:** What was your feeling? If you could give me a list of five items that you went away from that meeting to discuss—

**Mr. Hermant:** I can't itemize them that directly, Mr. Philip, but a number of the items that we were going to look at related to productivity improvements within the commission itself. We were concerned about treatment of capital expenditures, for another thing, and a number of other issues that related to the total picture.

**Mr. Philip:** How about sharing with us what those other items were?

**Mr. Hermant:** I do not recall specifically, but the end result was a final presentation to the board of commissioners who have, after some considerable discussion, amended certain of the commission guidelines, as you now know.

**Mr. Philip:** There are two items that, if I were in your position, I would think I would have wanted to discuss with the minister in terms of financial pass-through, which we now understand you did discuss at that meeting. One would be the length of time in which a new landlord can be expected to take a loss after purchasing a new building. The other would be the amount of equity that someone would expect to have in the building, the balance to be passed through to the tenants, I assume.

**Mr. Hermant:** Yes, we considered that as well.

**Mr. Philip:** Those were the two items.

**Mr. Hermant:** We considered those items, yes.

**Mr. Philip:** So when you went away to study financial pass-through, those were the only two items that you would have considered?



**Mr. Hermant:** Those were two items that we specifically did discuss during the month of August and September and into October, yes.

**Mr. Philip:** Did you at any time in that meeting with the minister discuss the inflationary problem of offshore investment in housing stock or rental stock in this province?

**Mr. Hermant:** I don't believe so.

**Mr. Philip:** That was not a consideration?

**Mr. Hermant:** I don't recall that being a consideration.

**Mr. Philip:** Yet you, as the deputy commissioner, and Mr. Williams would have been aware—

**Mr. Hermant:** I am not a commissioner.

**Mr. Philip:** I am sorry, legal counsel. But you as legal counsel of the commission, and Mr. Williams as the commissioner, would have been aware of the concern of various tenant groups and of members of the opposition about the inflationary effect on rental accommodation of offshore speculation—I will not use the word flip—particularly in the Toronto, Mississauga and Hamilton areas?

**Mr. Hermant:** We were certainly aware that there was some suggestion that offshore money was acquiring certain rental units, but since that money would be subject to the same rules as any local purchaser, it was felt that that wasn't an immediate problem. It may have become a problem later on because of the extent of the acquisition from offshore, but that was not considered to be a special problem at that time.

**Mr. Philip:** Did you ever talk to the Foreign Investment Review Agency about the extent of this?

**Mr. Hermant:** I did not personally. One of the solicitors in my office spoke to their legal counsel in a general sort of way inquiring about their terms of reference with respect to real estate acquisitions, not in any specific context, but in a general context.

**Mr. Philip:** Was it not your experience in your meeting with the tenants' groups that they expressed the concern that the single largest inflationary factor was not local money that was flipping buildings or trading in buildings, but was offshore money coming in? Was that not told to you?

**Mr. Hermant:** I don't recall being at a tenants' meeting in which that particular point was raised, but it may have been raised at other meetings at which I was not present.

**Mr. Philip:** As I recall—I may be wrong and I do not have my notes from a meeting which I arranged when the federation met with you—that was an issue that was raised and that would have been eight months ago. Is that not correct?

**Mr. Hermant:** I do not recall that subject being raised at that meeting, Mr. Philip, but I certainly recall that meeting. I recall that one of the primary concerns you raised at that meeting was the question of a conflict of interest situation with respect to several former commissioners who had resigned and entered into a consulting business, but I don't recall that foreign investment was raised at that meeting.

**Mr. Philip:** Then I go back to the minister on this. Why would you as the minister, albeit the new one, knowing that the tenants' groups—and I think we have had the admission from Mr. Hermant that at least, if not at that particular meeting at which I was with him, some tenants' groups had expressed some concern to the Residential Tenancy Commission—

**Hon. Mr. Elgie:** I do not think he said that. Did you?

No, he did not say that.

**Mr. Hermant:** It was never expressed at any tenants' meetings at which I was present. It may have been expressed at other meetings, but I wouldn't know.

**Mr. Philip:** Is the minister then saying that no one approached him from any tenants' group, and he was never approached with any concern that offshore funds and speculation was driving up the cost of rental accommodation in southern Ontario?

**Hon. Mr. Elgie:** I honestly can't recall whether that was raised or not. My recollection is that it was not raised at the meeting I had with Metro tenants. It may have been in some of the documents they left me.

**Mr. Deputy:** what is your recollection of that meeting?

**Mr. Crosbie:** I know I have been at meetings where that has been raised, but it certainly was not raised within the context that "this is the most important thing we have to discuss here today."

Usually these meetings cover a wide range of subject matter. In the course of them there might have been some reference to the impact of offshore money. I have some recollection of that, but I could not tell you at what meeting.

**Mr. Philip:** Is it not true, though, that your commission has been faced with concerns

expressed by tenants about companies such as PHI International, Barney River Investment Ltd., numerous companies based in Vancouver, although not always based in that city?

Also is it not true that the concern was expressed to the commission that these companies were not only creating an inflationary problem in rental accommodation, but that it was also harder to trace whether or not there were hands-off relationships between the mortgager and the mortgagee, among other things? In other words, in simpler language, it is harder to trace whether or not speculators or investors from foreign countries are not swapping buildings than it is to trace local owners.

**Hon. Mr. Elgie:** I honestly cannot recall if that was raised. If it was, it was not a paramount issue with the tenants' group. I have to say it has really been the enormity of this particular issue that has brought it to everyone's attention.

Clearly, I like to think I have endeavoured to be of assistance in trying to have meetings with the commission to direct themselves and myself to problems that were before them, and I hope the record speaks for that.

**Mr. Chairman:** Mr. Philip, when you have finished this we will have to move on. We will come back to you.

**Mr. Philip:** Perhaps it is the fault of your predecessor or maybe of some of your advisers who did not go through some of those speeches I gave warning your predecessor about this—that it was a major problem and that we have warned them.

My question is: do you feel, do you have any concern, that a major portion of a major resource that we have, namely rental accommodation, is in the hands of foreign owners rather than domestic owners?

**Hon. Mr. Elgie:** I think you went through that debate in 1977 when the land transfer tax on foreign acquisition of lands was presented. Clearly, the government at that time, along with the official opposition, felt that to have no such impediment to the acquisition of land by foreign buyers was not necessarily in itself a bad thing, and that this province should not be opposed to investment.

The issue before me is whether acquisitions by anyone serve to enhance the rent to a point that is not justified by the valuations on the property. That is my primary concern, and I think I have demonstrated it.

**Mr. Philip:** I have one last question then.

**Mr. Chairman:** I think that was it. You will have another chance. I should like to go on to Mr. Epp.

**Mr. Philip:** May I have just one supplementary, because it is important to tie this together.

**Mr. Chairman:** Okay, you may have a supplementary.

**2:40 p.m.**

**Mr. Philip:** I shall give Mr. Epp an extra five minutes, if that makes it fair.

In retrospect, Mr. Minister, would you not now agree that the repeal of the Land Transfer Tax Act, which placed a 20 per cent tax on the sale to a foreign investor—that repeal was passed by your government with the help of the Liberals—and the elimination of the land speculation tax, are contributors to our present situation and that they would have acted as a disincentive to the present problem? Would you not consider that perhaps it is time to put those back?

**Hon. Mr. Elgie:** The issues of land speculation tax and land transfer tax, as you know, are appropriately directed to the Minister of Revenue (Mr. Ashe), and I am sure you will raise it in his estimates and not mine.

**Mr. Philip:** That is a copout. You are a member of the government.

**Hon. Mr. Elgie:** That is right.

**Mr. Epp:** I have a few questions to ask the minister, if I may.

I want to go back to your meeting with Mr. Rosenberg. Was Morley present when you had that meeting with Leonard Rosenberg?

**Hon. Mr. Elgie:** No. I can arrange for you to meet with him if you want.

**Mr. Epp:** I just wondered.

**Hon. Mr. Elgie:** Which Morley, Morley Kells?

**Mr. Epp:** No, the brothers Rosenberg; I just wondered whether Morley was present.

**Hon. Mr. Elgie:** No.

**Mr. Epp:** He was not there?

**Hon. Mr. Elgie:** Did you expect him to be?

**Mr. Epp:** He is a solicitor. I thought he might have been a solicitor for Mr. Leonard Rosenberg.

**Mr. Chairman:** I understand his practice is up for sale.

**Mr. Epp:** He was selling his practice and moving to Toronto. It was advertised in the Globe and the Star and so forth, so I did not know whether he was going to appeal it or not to

the Ontario Municipal Board or work for his brother.

**Hon. Mr. Elgie:** Do you want to buy it? Go ahead, I guess it's all right.

**Mr. Epp:** I am not a lawyer or a surgeon.

**Mr. Chairman:** Just a little old politician.

**Hon. Mr. Elgie:** Let me tell you, it's nice to have something to retreat to.

**Mr. Epp:** I know.

**Hon. Mr. Elgie:** I sit a little more confidently knowing that, I tell you.

**Mr. Epp:** I have my own areas.

Getting back to your meeting with Mr. Rosenberg, and where he promised to put carpets in the building—

**Hon. Mr. Elgie:** I did not say that. I said he talked about putting in carpets.

**Mr. Epp:** He talked about carpets going into buildings.

**Hon. Mr. Elgie:** Some of the buildings.

**Mr. Epp:** So you have no way of keeping him to that commitment?

**Hon. Mr. Elgie:** I don't know of any way.

**Mr. Epp:** He merely mentioned it, it floated right by and that was it.

**Mr. Haggerty:** It wouldn't be "buy Canadian," would it? They would be Persian rugs.

**Hon. Mr. Elgie:** He indicated to me that Cadillac Fairview was to remain responsible for major defects, and I think I mentioned that in the House on one occasion, but there were some other things he would be looking after, like carpets where they were needed, and other improvements that might be required.

**Mr. Haggerty:** What do you mean by saying that Cadillac would look after major defects?

**Hon. Mr. Elgie:** I am just telling you what I was told, that Cadillac Fairview agreed, for a period of some months, six months I think, that if any major defects in the buildings arose that would be their responsibility.

**Mr. Epp:** In checking out documents and so forth—and I presume you have had some people checking some of them—did you find anything in those documents that referred to major structural defects and so forth, for which Cadillac Fairview were going to be responsible?

**Hon. Mr. Elgie:** I haven't read that document.

**Mr. Epp:** Have any of your staff alluded to it?

**Mr. Crosbie:** I went through it very quickly. There is no listing of defects that I am aware of.

**Mr. Epp:** In the appendices or anything of that nature?

**Mr. Crosbie:** Not that I am aware of.

**Mr. Philip:** First they undersell, then they provide a warranty. That's pretty bad business.

**Mr. Crosbie:** Just to correct slightly what the minister said, I think my recollection was that if there were any major defects up to the time of closing, Cadillac would repair them within six months of the closing.

**Hon. Mr. Elgie:** Quite right. My error.

**Mr. Epp:** Within six months of the closing?

**Mr. Crosbie:** Yes.

**Mr. Epp:** I presume those defects have been itemized and so forth.

**Mr. Crosbie:** Presumably on closing there would be some assurances obtain as to what defects were in existence, yes. I do not know of any listing of that, that is just the way the arrangement was described to us.

**Mr. Epp:** When you met with Mr. Rosenberg, was a second meeting contemplated at that time, or has it since been contemplated, with Mr. Rosenberg?

**Hon. Mr. Elgie:** No, I have not had a second meeting with him.

**Mr. Epp:** Do you anticipate having another meeting with him?

**Hon. Mr. Elgie:** I have no plans for a second meeting, but I anticipate that staff will be in touch with Greymac, as the Touche Ross and Co. people will be.

**Mr. Epp:** Did you keep a tape of the meeting with Mr. Rosenberg?

**Hon. Mr. Elgie:** Oh, come on, I am not in the business of keeping tapes of people.

**Mr. Epp:** I just wondered.

**Hon. Mr. Elgie:** No, this is not Watergate, my friend.

**Mr. Epp:** I have been at meetings where they have kept tapes. They keep a tape here. I just wondered whether you kept it or whether you had not made one.

**Hon. Mr. Elgie:** What is the implication there? Was there an implication there?

**Mr. Epp:** No, I just wondered whether you had one, because if you did have one that would be important to—

**Hon. Mr. Elgie:** Well, I have better than a tape. I had the deputy minister there.

**Mr. Chairman:** With his computer mind.



**Mr. Samis:** Ask him if he has anybody called Rosemary working for him.

**Mr. J. A. Taylor:** Explain about Watergate.

**Mr. Samis:** I am sure you read it through, Jim.

**Mr. Epp:** In the documents that will be made available to Mr. Morrison who will be looking at the Cadillac Fairview, Greymac—

**Hon. Mr. Elgie:** Along with counsel, yes.

**Mr. Epp:** What kind of documents will be made available to him?

**Hon. Mr. Elgie:** Would you comment on that, deputy? You have had those discussions, I have not.

**Mr. Crosbie:** He would have made available all of the documents that relate to the financial arrangements or which bear on the determination of the value of the property and the corresponding value of the mortgages. That is sort of the heart of the matter.

The limitation under the Loan and Trust Corporations Act is that any mortgage by a trust company cannot be placed beyond the 75 per cent equity limit. So if, for argument's sake, the land values are inflated artificially and the mortgages are advanced to the full \$375 million, the properties would be over-mortgaged in terms of the limits of the act and something would have to be done about that.

One of the major thrusts of our investigation is to determine this question of value of the land and of the mortgages. Now, in order to do that—as I understand the deal—you are going to have to go in behind the simple mortgage documents—and I guess they are not really simple in the way they are constructed—and get behind the other commitments and obligations of the parties under the various agreements to find out if there is an artificial value, what has created it, or if there is real value there, you have to prove it.

**Mr. Epp:** Do you anticipate calling appraisers or have you had discussions with the commissioner to call in appraisers to find out—

**Mr. Crosbie:** No, I have not had a discussion with Mr. Morrison. He is not available today. We are having a meeting with him on Friday at which time we will be going over it in some detail.

**Mr. Epp:** Do you expect the matter of calling in appraisers to appraise the value of those apartments will be raised?

**Mr. Crosbie:** I dare say it will be an issue, just in how we go about it. There is the obvious

difficulty in the various ways you can appraise property.

**Mr. Epp:** Replacement value.

**Mr. Crosbie:** Well, you see the Loan and Trust Corporations Act just speaks of value. It does not say a fair market value. It does not say economic value. It does not say value based on rent or income, so there is some question in law as to what the word "value" itself means and how we will apply it to this case. So that would have to be determined.

Assuming it does mean fair market value, then you would have to consider what elements of this purchase can be considered as fair market treatment or whether there has been an artificial element that has enhanced the apparent market value.

**Mr. Philip:** May I ask a supplementary? Is it not true to say that, whether or not the buildings' value is overinflated, you will still have no way under your powers to find out whether or not Cadillac may have had a part in the profits taken after the sale to Greymac. Is that true—within the limits of your investigative powers?

2:50 p.m.

**Mr. Crosbie:** I do not think I could answer that at this time, Mr. Philip, because I do not know what our investigation will disclose. In looking at the records of the trust companies there might very well be documents disclosing the relationships of all parties that were filed in order to assure the trust companies concerning the validity of the arrangements. If there were a whole series of side deals which were going to affect the value of the security, I do not think the trust companies would ignore that; they would want to know it.

We are hopeful that in the process of looking at matters related to the mortgages, a great deal of the information we have been discussing this morning will come to light. For that which does not come to light, we would have to look at what remedies or processes we have to deal with that.

We are sort of proceeding on the basis here that until we are stymied, if you will, and know there is an issue to be investigated further, we are not justified in launching investigative procedures against people who conceivably could be innocent of any wrongdoing.

There are so many parties involved here; some could be innocent, some could have ulterior motives. You have to be very careful when you use a shotgun approach, that you are not shooting the innocent as well as the guilty.

We are trying to come at this in a structured

way and move at it where we have powers of investigation, in areas where we know there appears to be some question to be determined. As that develops or identifies further areas, and we find we do not have the power under the Loan and Trust Corporations Act or any other act to take action, then we will have to look at what alternatives there are.

**Mr. Epp:** You have power under the act to get these mortgage agreements and the other agreements; the basic ones, deeds and so forth. Do you have power to get other correspondence and so on?

**Mr. Crosbie:** Yes, we can look in—

**Mr. Epp:** Do you plan on getting all that correspondence between the companies?

**Mr. Crosbie:** When you say “do we plan,” the inspector will. We can inquire generally into the conduct of the business of the company. That is a pretty broad power and the inquirer will have the powers of a commission under part II of the Public Inquiries Act to compel production of material.

**Mr. J. A. Taylor:** And witnesses.

**Mr. Crosbie:** Yes. So I would think Mr. Morrison has a very broad power here to go into the whole operation of the companies and get whatever documentation and information he needs that relates to this whole question. If it is in the company records, I would assume he is entitled to see it.

**Mr. Epp:** Another question I have, getting back to the Foreign Investment Review Agency. The minister said on October 14 in his statement to the House, “I do not understand all this talk about a foreign company.” That was your comment in the House on October 14. Yet in late September, one of your colleagues, Mr. Shymko, indicated in the House, “It was in late September the question was raised by the minister,” Mr. Elgie, “and by yours truly,” Mr. Shymko, “in full caucus.”

How do you reconcile these two statements? You indicated in the middle of October that you could not understand all this talk about FIRA being involved, or of foreign ownership, yet your colleague in the House indicated, at least two weeks earlier, that it had been discussed in caucus.

**Hon. Mr. Elgie:** Mr. Shymko must be in error because I tell you—as I have told you quite frankly in the House, particularly in my statement of November 4—information given to me by Mr. Rosenberg indicated that the money was

domestic money. I had no evidence or information to suggest that it was other than that.

**Mr. Epp:** All I know is Mr. Shymko indicated to the House at that time that it had been discussed in caucus.

**Hon. Mr. Elgie:** That may be.

**Mr. Epp:** The House discussion was public and that is what he said. We did not say it. He said it.

**Hon. Mr. Elgie:** I really do not recall that discussion in caucus. I could not have been there because I had no information at that time that there was any foreign investment at all.

**Mr. J. A. Taylor:** It is only human to err.

**Mr. Epp:** Yes, but some err more frequently than others.

**Mr. Philip:** You no doubt will want to have Mr. Shymko discuss the matter.

**Hon. Mr. Elgie:** Whether he does or does not, I know what the facts are.

**Mr. Philip:** We do not want anybody to suspect that you are conning the House.

**Mr. J. A. Taylor:** He is an honourable man.

**Mr. Epp:** I want to get some comments with respect to the work load of the staff of and the applications before the Residential Tenancy Commission. I will direct them to you, Mr. Minister.

The number of landlord applications received in the first seven months of this fiscal year was 3,891. In the same period for the last fiscal year, going from April 1 to March 31, it was 5,027.

**Hon. Mr. Elgie:** Of 1982.

**Mr. Epp:** Of 1981-82, right. Then in the next seven months there were 3,891. The average number of landlord applications received was 556 in the seven months. There were 419 per month in the previous year. That is an average increase of 137 per month, or a 32.7 per cent increase in that period. I presume they are increasing. They had been increasing anyway.

**Hon. Mr. Elgie:** It is my understanding that in recent weeks there has been a downward trend. Is that accurate?

**Mr. Hermant:** There is a slight downward trend in applications received in the last two months, but it is too early to determine if that is a real trend or whether it is just an aberration in the statistics.

**Hon. Mr. Elgie:** We are working on the assumption that with interest rates dropping the number of applications will not be as numerous. It is true, there has been a significant increase in

the work load and in the backlog resulting from it.

**Mr. Epp:** Yes.

**Mr. Philip:** Would this not be a good indication of the need for more frequent reports?

**Mr. Epp:** Just a moment, I want to pursue this.

The number of rental units affected has increased significantly. There has been an increase of 34 per cent. There has been about a 71 per cent increase in the rental rebate applications, where you have a rebate concerned. For hearings held on landlord applications, we had about 2,995 applications in the seven-month period ending October 31 in this fiscal year. We had 3,186 in the last fiscal year. We almost have as many in the seven months as we had all last fiscal year. There has been about a 60 per cent increase there.

In the landlord applications that have not yet been heard, we have about 2,655 in the seven months of this period, and 2,034 in the last fiscal year. There is about a 122.9 per cent increase there.

Given the fact you have increased the number of full-time and part-time commissioners—full-time by 12 and 27 part-time—do you really expect to handle all the applications, considering the fact you may be getting another 10,991 from Cadillac Fairview shortly? You are going to be getting twice as many units from the Cadillac Fairview deal as you have been getting for some months earlier. All of a sudden you are going to get a tremendous number thrown before you.

How do you expect to handle this, considering, of course, that the tenants often have to pay back rent when this is made retroactive? Often the landlords have to come before the commission again to get additional increases because some of the tenants have left and so forth. I can explain that in a minute, if you want me to. Maybe you can answer the backlog.

3 p.m.

**Hon. Mr. Elgie:** I do not think there is any doubt. As I have said before, the backlog question was really quite paramount in my mind because it is really not fair to landlords or tenants to either wait that length of time for revenue or to wait that length of time to have to pay back rent. It creates great hardships.

As I said, we received interim increases in funding in May. I quite frankly told Management Board that was not sufficient.

Then the commission set to work to give well-documented evidence to allow me to make

a further presentation, which we did. In late September or early October, a significant increase in funding—I think it was \$2.5 million annualized—was obtained. Even at that time, I said that still may not be sufficient to reduce the backlog in a satisfactory period of time, and I was given the right to come back again in March if I could verify that the backlog problems were persisting.

**Mr. Epp:** Next March?

**Hon. Mr. Elgie:** This coming March. Clearly, if the work load increases dramatically, I will go back before then. At the moment, the commission is just gearing up to fill the requirements that are allocated by the new funding.

**Mr. J. A. Taylor:** Could I have a supplementary on that?

**Hon. Mr. Elgie:** It is a very important problem. You are talking about 10,000 units, not 10,000 applications.

**Mr. Epp:** No, 10,000 units, which is about five per cent—

**Mr. Crosbie:** In terms of applications, a building with 500 units is one application.

**Mr. J. A. Taylor:** That is the point I wanted to get at in my supplementary.

**Mr. Crosbie:** We know there are 25 or 26 parcels. Whether those parcels constitute residential complexes which would compose a single application, I am not sure. But there are much fewer applications than the number of units.

**Mr. Epp:** Each of them has a large number of units in it.

**Mr. Crosbie:** That is right. One complex, I believe, has 1,800 units in it. That would probably be one application.

**Mr. Epp:** As we know, with the publicity that has surrounded this series of sales, there is going to be a great interest by the residents. We anticipate requests for increases. I think Mr. Rosenberg indicated to the minister at the meeting and to the deputy minister that they obviously would be applying for increases.

With all the interest surrounding those particular applications they may take longer. I think the commissioners hear an average of 3.1 applications per week; if the commissioners hear these applications, they might take longer than even one week for one application.

**Mr. Crosbie:** That is the intent behind the chairman's structuring of a group of people to concentrate on these hearings, so that you will not have a learning process where a different commissioner has to brief himself on the whole



background every time. If you can put together a few people who become specialists in this area, processing individual hearings will be much quicker than would otherwise be the case.

**Mr. Chadha:** I just wanted to add that by the end of July our outstanding applications had peaked to their highest level of 2,837. As you have indicated, by the end of October it had already come down to 2,655. There is a trend that our backlog is already coming down from the peak. Once the new commissioners are appointed and in position, we expect that it will keep on coming down.

**Mr. Epp:** But as you know, right now there is a waiting period of somewhere between five and six months.

**Hon. Mr. Elgie:** In some places, yes.

**Mr. Epp:** In some places longer than that. You have to wait an average of five or six months unless, in some cases, you get special consideration and may be moved up for whatever reason.

**Hon. Mr. Elgie:** Is that the average?

**Mr. Hermant:** Certainly in Metropolitan Toronto it can be as much as six months. We hope to be able to eat away at that backlog and reduce that waiting period over the next four or five months.

**Mr. Epp:** The problem that causes, as you know, is that when you get an increase above six per cent going to rent review, some of the people may have moved out. You may have created some loss in revenue due to people moving out and filling those vacancies. If you ask for an increase of eight per cent, let us assume, and that is justified, all of a sudden you find you have lost money because of people moving out. Of course, you will have to go back next year again and ask to make that up. Whereas the six per cent would not make it up, they might feel that seven or eight per cent would, so you have another application the next year.

What you are really doing by having this great backlog is compounding your problem because people may keep coming back. It would be healthy for both the tenants and the landlords if this could really be expedited to maybe one month or something.

**Mr. J. A. Taylor:** Justice delayed is justice denied.

**Mr. Epp:** I am glad you said that; I agree.

**Hon. Mr. Elgie:** That is the very issue we are trying to address by increasing the funding.

That is one of the issues we have asked Mr. Thom to look at, improving the process in any way that might speed up the process.

**Mr. Chairman:** Mr. Taylor, did you have a supplementary?

**Mr. J. A. Taylor:** That is okay; it has been answered now and I think clarified.

**Mr. Epp:** It is clarified?

**Mr. J. A. Taylor:** I was concerned that you were putting an unfair emphasis on the number of units and possibly confusing the number of units with the number of appeals of those tenants. That issue has been clarified.

**Mr. J. M. Johnson:** Since the minister is now the czar of the housing crisis in Ontario, I would like to ask a question that is not totally on track.

**Mr. J. A. Taylor:** You mean the whipping boy, do you not?

**Mr. J. M. Johnson:** It has to do with the apartment shortage, especially in Metro. I would like to propose—and it has likely been proposed on many occasions—that some single-family dwellings be converted into apartment units. It would help two-fold. It would help the people who have an economic problem paying their mortgage, and it would also free up some housing stock for the citizens, especially in Metro.

In many of the old homes in the small towns in my part of the country, Wellington-Dufferin-Peel, a couple raises a family and, instead of moving out, they just convert part of the house into an apartment and bring in another elderly couple or a newly-married couple. It provides housing, and it is within the economic means of both the owner and the people who have to rent.

I understand there is a bit of a problem with some bylaws in Metro, but is it not something that we should be looking at?

**Hon. Mr. Elgie:** That is one of the areas the Ministry of Municipal Affairs and Housing has been looking at.

**Mr. Philip:** Supplementary.

**Hon. Mr. Elgie:** May I finish answering this?

As you say, I do not think that sort of proposal, if it was agreed upon and put forward in a formal way, would be the form in which one could do it without prior consultation agreements from municipalities, because the residents in municipalities have certain rights as well. Certainly, there is a lot of merit in it, but it would be subject to those prior agreements and understandings. As you know, some communities have very strong views on single-family

dwellings. Many of our ridings have those situations.

**Mr. J. M. Johnson:** The reason I mention it is the fact that I have talked to the Minister of Municipal Affairs and Housing (Mr. Bennett) about it. I understand that he does support the concept. Also, he finds it extremely difficult to receive the support of the municipalities. You are under the gun for a problem that has been created by many factors, but the major one is certainly the lack of accommodation in the city.

If there is some way that we can resolve it, I think you have to be broadminded enough to take a look at all of the avenues instead of zeroing in on one or two.

3:10 p.m.

**Mr. Philip:** I think that is an area the minister is interested in. As a matter of fact, he announced in the Challenge 2000 program that he had \$9 million for conversion and \$1 million for study.

The reason is not that municipalities are not co-operating, it is the fact that the Minister of Municipal Affairs and Housing who is, of course, not nearly as progressive as the minister sitting before us, has not provided any of the funds.

**Hon. Mr. Elgie:** What are you trying to do, split the ranks here? We are great colleagues in this world of teamwork.

**Mr. J. M. Johnson:** Just one remark in conclusion: I would like to suggest that not everything we do in this province has to be done by this government or any other level of government. I happen to think that there is a little private initiative out there. If the municipalities would allow it to be done, you would find many people would step forward and make the conversion themselves.

**Mr. Philip:** Maybe the minister would not announce that all of this money was being given and then not provide it—grandstanding, in the way he did, with what essentially was a good idea but never delivered. Maybe when you are having the next conversation with him you can tell him to say either the money is not going to be forthcoming or that it is, and let us get on with the job. But that does not concern this minister because it falls under a different ministry.

**Hon. Mr. Elgie:** It is also fair to say that neither has there been a general rallying around the flag over the proposition by the municipalities. I think that is fair to say. For it to succeed, it would have to have that kind of support; I think that is Mr. Johnson's point.

**Mr. Swart:** I want to go into three areas a bit. I

want to revert to a question about determining the beneficial owners of the sales from Cadillac Fairview to Greymac and on to the Arabs. It was established this morning under questioning from my leader.

You perhaps do not have, under what is proposed at the present time, the authority to determine the beneficial owners. You may get the information voluntarily, but you do not have the legal authority to pursue that to the point where you can determine who the beneficial owners are.

However, it was implied at least, and perhaps more than that, that probably you would be able to determine that through the rent review process. The minister and Mr. Williams indicated that. That is what I want to pursue; I have some question about that.

I understand it is proposed that the owners will have to provide this information or else the commissioner will either not deal with the issue or deal with it by disregarding those facts. As a layman, I have some difficulty understanding how the rent review commissioner can require that information—granted, he does not have to make a decision—if it cannot be acquired through due process of law at the present time, if it is confidential.

It seems to me, if I can just pursue this before you answer, that it would be possible for a landlord to make a case in court that he does not have to provide that information. If he did not provide that information, it could not be a factor on the determination of the commissioner. I am a layman in this, but I do not see how you can use that back-door route. If by due process of law you cannot get that information, how can you use a back-door route of rent review to get it?

I would like the minister's comment on that and if you wish to comment on it further—

**Hon. Mr. Elgie:** My comment is only that these are matters that were referred to by Mr. Williams. Mr. Hermant is quite prepared to comment on them, but I might say in addition that the importance of knowing the beneficial ownership is an issue that will also be addressed by Mr. Thom in his inquiry.

Mr. Hermant, what are your comments?

**Mr. Hermant:** It is true that at this stage of proceedings it may be difficult in law to get at that information but once the commission has an application before it with reference to one of the buildings that apparently is a part of this transaction, in my opinion at least the Residential Tenancies Act creates many powers that

could be used to get at this information by means of investigation.

I can refer you to subsection 93(2) which reads: "In determining the real merits and justice of the case the commission shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants, and in so doing may disregard the outward form of the transactions or the separate corporate existence of the participants and may have regard to the pattern of activities relating to the residential complex."

Add to that the powers in section 108, which says: "The commission may, before or during a hearing, conduct any inquiry or inspection it considers necessary and question any person by telephone or otherwise concerning the dispute;" and further add to that the provision in the Statutory Powers Procedure Act, which gives any tribunal the power to summons any person before the tribunal at the hearing, including any documents or any matters that are relevant to the matter.

I think those three powers combined are quite substantial and give the commission considerable power in getting at this information.

**Mr. Swart:** I would just like to pursue that a little further, and my colleague has a supplementary.

It was my understanding from the reply, I believe it was from the minister or the deputy minister this morning, that under present procedures, and because of confidentiality and so on, there was no way at arriving at who were the beneficial owners. I am not talking now about the rent review act; apart from the rent review act there was no way that you could determine who the beneficial owners were.

Am I incorrect in that interpretation of what was said this morning, because it was a subject of great discussion by the leader of the Liberal Party and by my leader?

**Hon. Mr. Elgie:** My recollection of my comments and the deputy's comments, and again I do not think there would be any significant variance between them, is that the original question was what can you do right now. I think the answer was that present legislation, other than the Residential Tenancies Act, does not give power to see through to the ultimate beneficial owner. You can require information about who the directors are, but they may not necessarily be the beneficial owners. What we also said was that we believed the commission had that power.

**Mr. Swart:** But you are saying to me, in effect, the power that does not exist any other place can exist with the commission.

**Hon. Mr. Elgie:** That is what Mr. Hermant and Mr. Williams are saying.

**Mr. Swart:** The act that you have mentioned, you are saying that if it does not exist there, the commission solely can determine who the beneficial owners are. That is what you are saying.

**Hon. Mr. Elgie:** That is what they are saying.

**Mr. Hermant:** But the commission can only act on those powers once it has an application before it.

**Mr. Swart:** Of course I understand that. I guess I just want to pursue this further.

You are a senior lawyer and I am a layman, but it would seem strange to me that there could not be an injunction obtained by the company to prevent that kind of requirement when it is not provided in the other forms of law. You cannot get it any other way and it would seem to me that there could be an injunction so that information would not have to be provided, and it would have to be disregarded by the court.

You cannot force them—you would agree with me on this—to provide that information. You can say to them, if you do not provide that information then we will either not deal with your application or we shall deal with it in a manner which will remove any consideration of what you might—

**Mr. Hermant:** It would be disallowed.

**Hon. Mr. Elgie:** That is what he said before.  
3:20 p.m.

**Mr. Swart:** I know, I am saying that is what he said; but it would seem to me if that is the case, that if you cannot require that information, it cannot be required through the other processes of law, that owner could get injunctions so that he could not have to provide that information and it could not affect the application.

I would like to have your comments on that. Am I way out on that?

**Mr. Hermant:** In the ultimate I think the commission could exercise its powers of summons under the Statutory Powers Procedure Act and if they failed to provide that information after having been summonsed to do it, it is open to the commission, I think, to go to the divisional court for an order requiring them to do it.

**Mr. J. A. Taylor:** It seems faulty to me, with respect, Mel, that you are looking to the future and saying is it possible to get this information



through the commission or through some other source. Now we understand the answer from the commission. Again, some other source would be—well, I understand two sources have been put into play: one is the royal commission with Mr. Thom and the other is the inquiry with—

**Mr. Philip:** The royal commission does not have that power. The minister just said it does not.

**Mr. J. A. Taylor:** Just a minute. In gathering the evidence, for example under the Touche Ross inquiry, it may be apparent. You say there is no way, it may be apparent. There may be personal guarantees on documentation. It may reveal itself.

**Mr. Philip:** You think they are going to be that sloppy?

**Mr. J. A. Taylor:** What you said is impossible I am saying may reveal itself very quickly through one or other of the processes. Of course, you have the power to subpoena and the power to gather documents.

**Mr. Swart:** The minister refused to say this morning that you have the power, that the Thom commission would automatically have the power to determine the beneficial owners. I think you refused to state that it was—

**Hon. Mr. Elgie:** I think the deputy commented on that earlier and he could comment again on it.

**Mr. Crosbie:** I think what we said earlier was that in the course of the investigation that information might be available. It is conceivable.

**Mr. Swart:** That is right. Conceivably it could be available. I am not arguing that point, but not necessarily so.

**Hon. Mr. Elgie:** Right now I could not guarantee that the Touche Ross report will gain access to this question—

**Mr. Philip:** He said it was impossible to require it. They may find it by accident.

**Mr. J. A. Taylor:** Not by accident, by design.

**Mr. Swart:** This is my concern. I just refer you to Mr. Crosbie's answer. I hope you were listening.

**Mr. J. A. Taylor:** I was listening and it was precisely the comment that I made.

**Mr. Swart:** He was saying they "may" get that information, but not necessarily will they be able to get that information. Then the only other route under present proposals to get that information will be the route after an application is made for rent review.

I have some question, and that is the point I am making here, that under rent review you will be able to require that information. Certainly you will not be able to require it, even if they want to get an increase and make an application for an increase in rent, the commissioner would have to deal with that even though that information was not provided, because by the due process of law he does not have to provide it and that is the point that I am making.

I am not sure whether I make my point clear or not, but that is what I wanted you to comment on to this committee, that the rent review commissioner would be able to require that information and in the absence of it refuse to deal with the application.

**Mr. Hermant:** Through the exercise of the power to summons under the Statutory Powers Procedure Act we can require it. If they fail to provide it, it is open to the commissioner to take the position and make a finding that he is not satisfied with respect to that aspect of the claim and disallow it, yes.

**Mr. Philip:** How often have you done that?

**Mr. Hermant:** It has been done to my knowledge at least several times.

**Mr. Philip:** At least several times, and in each of those cases the information was provided?

**Mr. Hermant:** Yes.

**Mr. Philip:** And if it had not been provided the only recourse open to you would be simply to disallow the application for the rent increase?

**Mr. Hermant:** Yes, that is the easiest way to deal with it, I suppose, for a commissioner.

**Mr. Philip:** If you were a corporation that did not want to reveal that information, would it not be fairly simple for you to simply allow the disallowance, temporarily, or drop the application for a couple of months until such time as you could switch around your papers so the papers that would be then filed would show a different ownership that would not be embarrassing to you?

**Mr. Hermant:** That is a possibility, I suppose.

**Mr. Breithaupt:** Wouldn't the other address on the filing be on the application?

**Mr. Philip:** There would be nothing—

**Mr. Hermant:** They would look at the previous application.

**Mr. Breithaupt:** They still have the power to look through the transactions.

**Mr. Hermant:** They can go behind the corporate ownership and look at the pattern of

activity. That would even go towards any change of ownership, any previous applications. The powers in such examinations are pretty broad.

**Mr. Philip:** But when you end up in that position, and if at that point they are hands off, there is nothing you can do about it anyway. So what if they find out?

**Mr. Hermant:** If it is a legitimate non-arm's length transaction and it is bona fide, there is no reason to do anything.

**Mr. Philip:** But it is the new application, then, that would be under consideration, not the old one; and therefore they can get out from under it. So what if we find out that this is what they are doing, as long as they correct it the new application will go through as normal.

**Hon. Mr. Elgie:** As long as the new application is an arm's length one, but if there is a collusive arrangement between the original owner and the second applicant in order to circumvent the request for evidence of the beneficial owner, then as Mr. Hermant has said you could look through the whole arrangement and go back to where the deal started.

**Mr. Philip:** Wouldn't it be much easier to have corporate disclosure legislation as we proposed, as amendments under your ministry, rather than go through this long, convoluted process to find out the information?

**Hon. Mr. Elgie:** I guess that goes back to the whole issue of privacy of individuals and of corporations, and frankly the issue of the relevance of beneficial ownership in the area of rent review is an area that Commissioner Thom will be looking at. I cannot answer you in any other way than I have done before.

**Mr. Swart:** But would the minister not agree that this rent review process, on the evidence given here, circumvents that privacy?

**Hon. Mr. Elgie:** I would say for the purposes of that act it allows them to obtain information they need to make a determination under section 93.

**Mr. Swart:** But does it not circumvent the privacy which is provided under the corporation—

**Hon. Mr. Elgie:** It does so for a particular statutory purpose.

**Mr. Swart:** And that is out in the open at a public hearing?

**Hon. Mr. Elgie:** For a particular statutory purpose.

**Mr. Swart:** In that particular instance it

circumvents; if you can circumvent for that purpose why shouldn't you have disclosure?

**Hon. Mr. Elgie:** You are talking about documentation that is available for the public to walk in and get any time they wish. That is another issue, but for the purposes of that process, they are empowered, as part of their obligation to make sure there is no collusive activity, to see through transactions, for purposes of that act.

**Mr. J. A. Taylor:** What kind of people do you associate with?

**Mr. Philip:** It is kind of interesting to watch you push and pull at the same time.

**Mr. Chairman:** Finished your line, Mr. Swart?

**Mr. Swart:** I have finished that one question.

**Hon. Mr. Elgie:** Speaking of push and pull, I can't help remember what I referred to this morning. It is about a year ago now when Jim Renwick was saying that added to this business there should be warrants and all that stuff; and now we have turned right around, "Just move right in boys, never mind all that reasonable and probable cause stuff."

**Mr. Philip:** Oh, no.

**Mr. J. A. Taylor:** Renwick's amendment, I think they called it.

**Mr. Breithaupt:** I think your leader called it a flip-flop.

**Mr. Philip:** With the greatest of respect—

**Hon. Mr. Elgie:** "Tell me what position you want me to take and I will take it," that sort of thing.

**Mr. Philip:** We told you exactly what position to take. It was Renwick's amendment. The ones who have done the flip are the Liberals who voted with you against the amendment and are now chastising you for not having the information that amendment would have provided to you.

**Hon. Mr. Elgie:** I remember the article very well, when the member for Riverdale said he had great concerns about the rights of human rights officers to enter premises without appropriate warrants and look at documents without due and reasonable cause. I was moved by it.

**Mr. Swart:** Probably backwards.

**Hon. Mr. Elgie:** Now you have moved a bit too; however, that is another problem.

**Mr. Swart:** I hope you have the same sport with the next two questions that I ask.

**Mr. Chairman:** Go ahead, Mr. Swart.

**Mr. Philip:** Oh, come on. As the guys who have Bill 179 you can hardly chastise us.

3:30 p.m.

**Mr. J. A. Taylor:** Shame on you. No concern for anybody, heartless, cold, cruel, calculating—

**Hon. Mr. Elgie:** You are not talking about me this time?

**Mr. J. A. Taylor:** No, I am talking about the New Democrats.

**Mr. Chairman:** Listen, we only have about an hour left.

**Mr. Philip:** You will have the whole Roman Catholic church against you over Bill 179. You should see the letters that are coming in.

**Mr. J. A. Taylor:** We are on the side of fairness and responsibility.

**Mr. Chairman:** Mr. Swart.

**Mr. Swart:** I pose this question to the minister again. With regard to—

**Mr. Philip:** I haven't got God, but I've got Cardinal Carter.

**Mr. Chairman:** Will you two gentlemen go outside and do your discussing there so we can get on with the business of meeting?

**Hon. Mr. Elgie:** I think life is ironic. Name the position you want me to take and I will take it.

**Mr. Philip:** You are a physician.

**Hon. Mr. Elgie:** Never mind—

**Mr. Philip:** No, not that position. Trudeau got in trouble with that position.

**Mr. Swart:** Would the minister not agree that even with the proposals he has in the statement of the 16th—

**Hon. Mr. Elgie:** Sorry, with what?

**Mr. Swart:** Your proposal in the statement you made in the House yesterday with regard to the limitations that you are placing on the pass-through of the capital costs or refinancing costs. If that is carried through to the ultimate, the tenants will end up paying all of those refinancing costs, the capital costs plus most of the interest; granted you are extending the three years to five years for total recovery.

They cannot add on the interest of the carrying charges of that capital, but they will end up over a period of time—be it 20 or 30 years, whatever the refinancing period is—paying, apart from that interest, all of the capital pass-through, the capital cost which we pass through to them—in the case of this increase from \$270 million to \$500 million. The tenant ultimately will pay all of that difference, all of

that speculative increase in the value of those properties.

**Hon. Mr. Elgie:** First of all, we have already been over this a couple of times, but it is interesting to go over it again. I have indicated that one of the first issues to be addressed is the issue of property values. When that is determined, we will decide what steps are to follow.

Second, if you are implying there is something going on that is not a tradition in the housing market, namely that an owner has a product to offer and he offers it for a fee, to recapture his costs and provide some income as a result of it, then I would say to you that there is nothing unusual going on.

What is unusual is that through the guidelines of the legislation, I, along with the commission, am endeavouring to see that what is passed on to tenants is passed on fairly and not in any excessive amount. Surely, that was the function of the rent review legislation in the first place, to make certain that rent increases were not excessive and that they were passed on fairly.

**Mr. Swart:** But you have not answered my question. Is it not true—

**Hon. Mr. Elgie:** I have answered it fully.

**Mr. Swart:** No. Under your rule, all capital costs can still be passed on to tenants, with the exception of this interest that I am talking about, the exception of the limitation of five per cent per year, which will be cumulative.

Is it not true that all of those increased capital costs—and I am not suggesting that this is anything new; I am suggesting that the magnitude of it has exploded with Cadillac Fairview—whether or not the amounts are reasonable and whether the tenants may in fact have paid all or almost all of the capital once in rent over the years, they will find that they will have to pay 85 per cent of that new capital?

Granted it may be delayed for a period of time, granted they may not have to pay some of the interest, but in fact they may have to pay for the building twice, or even three times, in the total capital costs.

**Hon. Mr. Elgie:** And granted, as I understand it from yesterday's discussion, that when one prolongs these things for five years, there is significant impact on the owner. Would you just describe those for me, as Mr. Williams did?

**Mr. Hermant:** Yes. As you extend the period over which the pass-through is extended, for argument's sake say over a five-year period, in the first year there is going to be a significant



operating loss as a result of only 20 per cent of that increase being passed through.

Each year, there will be an additional accumulated loss added to that until at the end of the fifth year the accumulated loss will, I believe, equal or double the original loss. That is going to have to be absorbed by the landlord, and he will have to finance that whichever way he can.

In effect, it is forcing additional equity participation by the landlord by the assumption of that unrecoverable accumulated loss over that five-year period.

**Mr. Swart:** That loss is interest. He has not recovered the capital, but is there anything in this provision which says he cannot recover that total capital at a later date? He cannot recover the interest on it, as I read this, but can he not recover the total capital?

**Mr. Hermant:** Over the full amortization period of the mortgage, yes.

**Mr. Swart:** Some of it is simply a delay in the repayment of the capital, is that not true?

**Mr. Hermant:** Yes, but that might be 25 or 35 years.

**Mr. Swart:** But I am saying the tenants are ultimately going to pay that total capital. Granted, there will be some interest which will be not paid, and that interest may be substantial. I am not saying it is not a move in the right direction, but it is still true.

Taking this particular instance, say Thom decides that this is an arm's-length deal, nothing inappropriate—well, I should not say inappropriate; nothing illegal about this deal—in this whole transaction that has gone from \$270 million to \$500 million dollars, these people will have to pay 85 per cent of the total capital cost, less the interest which is disallowed, if the commission determined that it shall be delayed for up to a five-year period. Am I right in that assumption?

**Mr. Hermant:** Yes.

**Mr. Swart:** I want to pursue that—

**Hon. Mr. Elgie:** Let us now add in addition to that, the rent review legislation does not permit the commission to pass through or give any consideration to profit, nor any interest on profit.

**Mr. Hermant:** Unless it is done to produce a break-even point.

**Mr. Swart:** I do not mention the profit. I know that.

**Hon. Mr. Elgie:** One of the great problems or concerns I have with the legislation is it literally

says to people: "Hang on to it. Do not worry if you are not making any money from it, you can sell it one day." So we are encouraging sales, in a way, as a way of retrieving any capital, and when you do you have to pay capital gains tax on it.

**Mr. Swart:** But the tenants are going to have to pay for even speculative increases. I want to pursue that further with you.

Do you not think, Mr. Minister, that there is something unfair about tenants having to pay that twice? It is my understanding that some of these Cadillac Fairview buildings were paid for.

They pay for maybe 20 years, a capital cost to pay off the original cost of that building. Now it is sold. In your program to deal with this, why would there be no guideline to determine in these cases where tenants have paid for the capital cost of the building or a good portion of it, and that would be taken into consideration so that the equity, some sort of equity which was there before, should still be there, more than the 15 per cent under the sale of this property? Whether you lower it to 75 or 65 per cent, you might have some sliding scale.

Am I making myself clear? Am I making my concern clear to you, and will you reply to it?

3:40 p.m.

**Hon. Mr. Elgie:** You are making it very clear. What I am saying to you is that the acquisition of a rental property is an investment that someone makes. In the free market, it is based on what the market will bear; in this controlled market, it is based on the principle that only costs will be passed through.

What I am saying to you is that if you think the program you are proposing is one that would work and encourage the private sector to produce rental housing in this province, then I will tell you, you will never see another building built.

The tenant turnover rate is 20 per cent a year. You have new tenants moving in all the time looking for a product based on quality and price; they choose that and the person who has an investment in the building offers his product at a particular price. But because of particular circumstances now, that price he can ask is controlled; it does not allow the commission to even consider whether or not there is a return on investment in the structure.

**Mr. Swart:** But do you not realize—

**Hon. Mr. Elgie:** I understand exactly what you are saying, and you can repeat it six times and that is still the answer you are going to get from me.

**Mr. Swart:** But do you not realize that the other side of the coin you are putting before us, Mr. Minister, is that when someone has—like the Arabs, if you will, or somebody else—a lot of money to invest in this tight housing market, and when they can do this sort of flipping, the mortgages are in fact—

**Hon. Mr. Elgie:** First of all—

**Mr. Swart:** Let me finish my statement. Mr. Chairman, I want to finish my statement.

Do you not realize that by that money going into buying apartments rather than into building new apartments, you are defeating your own purpose; by flipping them over like that, they can make a lot more money than they can by building new ones?

**Mr. Breithaupt:** Of course, under rent review there is no point in building new ones. Rent review does not apply to the new ones. I would like to have the minister answer.

**The Vice-Chairman:** Mr. Minister, would you enlighten the gentleman?

**Hon. Mr. Elgie:** I suspect that it is not going to be a process of enlightenment. We can go on all afternoon debating different philosophies on the thing and I can only repeat my position which I have placed before you. It is true, I kind of wish that if there are investors who do not want any quick return on their investment, this delayed kind of return, I hope that whoever is advising them will advise them to invest it in new buildings.

**Mr. Breithaupt:** That is certainly how to get it.

**Hon. Mr. Elgie:** I tell you, that is an excellent way to get construction built, and it would be of benefit to us. I hope whomever is advising them tells them that.

**Mr. Swart:** I have a number of other questions, Mr. Chairman. I know there are others—

**The Vice-Chairman:** I do not want to be rude and I want to make sure you have all the time you require because I know you are a very thoughtful and perceptive person, but I would like, if you do not mind, to go to Mr. Haggerty, and possibly we can return to you.

**Mr. Philip:** I thought I was on your list.

**The Vice-Chairman:** You are always on my list.

**Mr. Haggerty:** I just want to follow up on a few comments that were raised by my colleague from Welland-Thorold. I am concerned about the present situation as it relates to Cadillac

Fairview, and I do happen to have an apartment in one of their buildings, and—

**Hon. Mr. Elgie:** Conflict.

**Mr. Haggerty:** Conflict of interest. I have heard quite a few comments in the elevators; people are concerned about this transaction, particularly those people who have been in there for a couple of years now. Even six per cent is raising their rental considerably, and now with the five per cent you have added in to the six and five—we keep coming back to that six and five business. The question is, you do have an exemption there, anything over \$750 a month under the present rule; are you contemplating raising this to \$800 or \$900 or something in that area?

**Hon. Mr. Elgie:** I have no present plans on that. The commissioner will be looking at it. As you know, the original legislation as I recall it contemplated a ceiling of \$500, but that was raised by the members at that time to \$750 with the view that anything above that was an amount that could well compete in the open marketplace and would not need rent restraint attached to it.

That is an issue the commissioner will be looking at.

**Mr. Haggerty:** Your present legislation is, I guess you could call it—

**Hon. Mr. Elgie:** Our present legislation.

**Mr. Haggerty:** Our? Yes, that is the word to use.

**Hon. Mr. Elgie:** You remember that.

**Mr. Haggerty:** Yes, I can remember that.

It says it will be a sunset law, I guess; it makes reference to 1983. If we do not have a favourable report by the commissioners making a study of this area, then some of the people who have been in these apartment buildings could be well over the \$750 and they could automatically become exempt. So we are coming back to the present law that anybody who builds an apartment after 1976 is exempt from rent control.

I have noticed in my area—small as they are down in my area—that some of the landlords have increased the rent three times in one year. The rents they are paying in Port Colborne, compared to the rents here, are almost the same for the same size apartment. It is getting to the stage there now that it may well be critical that under the free enterprise system, someone may take advantage of the 1976 rule.

**The Vice-Chairman:** Are you suggesting the distortion is down in Toronto or in Port Colborne?

**Mr. Haggerty:** I think it is mushrooming across Ontario.

I was interested in a witness's comment when he mentioned section 93, the change of ownership. Would that apply to page 10 of your statement of October 16: "Secondly, of particular concern to me is the absence of registry of rents. As long as no one can actually track the rent changes from tenant to tenant it is extremely difficult to determine whether the six per cent limit on rent increase made by the landlord alone has been honoured."

You mentioned that, through section 93, they can trace or find the change in ownership from one person to another company or developer. If it is that easy to find under section 93, could you not apply the same thing to the registry of rents? You are not depriving anybody of any secret documents or information.

**Hon. Mr. Elgie:** The issue you have raised about seeing through a transaction can only arise if the matter is before the Residential Tenancy Commission. As you know, the enforcement of the rent registry, section 33, which we had proposed, was struck down by the Supreme Court of Canada. I personally would like to see it instituted, but the commission has no way of ensuring it can be instituted.

It has no force of law in trying to require such a thing, but I am very supportive of the establishment of a central rent registry and the commissioner has indicated he will look at mechanisms to allow the introduction of such a thing.

**Mr. Haggerty:** I cannot see why there should be a difficulty in this particular area. If I buy an automobile, for example, it is registered. If it is sold to some other person, it is still registered. The chain of events still follow through. Everyone has access to that information.

**Hon. Mr. Elgie:** Mr. Hermant can explain it to you.

**Mr. Hermant:** The difficulty with proclaiming section 33 as it presently stands is that the commission has no power to require the landlord to file that rent information on an annual basis. Without the power to enforce the filing of rental information, it is an incomplete registry. That is really the difficulty.

**Mr. Philip:** A supplementary. It has been two and a half years since you discovered that section was unconstitutional or was thrown out—

**Mr. J. A. Taylor:** Can we clarify? Does anyone recall the date?

**Mr. Hermant:** In May, a year and a half ago. 3:50 p.m.

**Mr. Philip:** All right, a year and a half. But it was first challenged two and a half years ago. You knew that in the challenge, this particular section was not what was being challenged. It just happened that it was caught—it is like being the found-in, even though you are innocent.

**Hon. Mr. Elgie:** How do you know about that stuff?

**Mr. Philip:** I read a lot. I have a lot of constituents who come to me with problems of various kinds. It is amazing, it is an educational experience being an MPP.

It is at least a year and a half. You knew this section was not under question, and surely you could have proclaimed that section and put an amendment to the Residential Tenancies Act with a penalty for noncompliance. Why do you have to have a further study on this, instead of doing what you yourself admit would be helpful?

The Federation of Metro Tenants' Associations claimed, by their estimation, that there were 70,000 illegal rent increases last year. Your own commissioner, Mr. Green in Etobicoke, says he catches one out of every 10 and that they know who is violating the act over and over again.

Why can you not simply introduce an amendment to the act and do it now? It does not need to be studied. Any further study will come to the same conclusions that both you and I have come to, which is that it should be done.

**Hon. Mr. Elgie:** That is one of the reasons why I have asked for an interim report. There may be other matters like that, that can be addressed.

It has not been a year and a half of sitting idly by. With the introduction of the new Charter of Rights, the Attorney General (Mr. McMurtry) some time ago wrote to the Solicitor General in Ottawa asking if he would consider an early amendment to the charter to make the portions of the act that had been struck down legal. I have not talked to him lately about it to see if he has had a response, but I do not think he has.

We have not been sitting idly by, not interested in those parts of the act that were struck down. We continue to have an interest in them.

**Mr. Haggerty:** My question to the minister is, with the alarm brought about by the sale by Cadillac Fairview to Greymac, a number of tenants' associations have now been formed and



established within Toronto and the boroughs. Would the minister accept the files from the tenants' associations who say, "We will send a copy of our agreement to the commission" and use it as evidence to follow up on the proper rent increases that occur?

**Hon. Mr. Elgie:** I do not know the practicality of that. Mr. Hermant, can you comment?

**Mr. Hermant:** Any tenant who believes he is paying an excessive rent can apply to the commission under section 129 for a rebate and, if that can be established, the commission will make an order rebating to him the amount of any excess found.

I might say, though, that of all the applications made under this section, 85 per cent of them are successfully mediated and do not require a hearing. Once the applications are made, the rate of success of mediation is extremely high.

The problem is, I do not think sufficient applications are being made.

**Mr. Haggerty:** Would you accept the documents from the tenants' association which may act like a registry of rent?

**Mr. Hermant:** They would have to substantiate to the commission that there has been a second increase in a given year or an increase above and beyond a commission order or some other illegality.

**Mr. Philip:** Would you not agree, though, that some of the worst violators are some of the smaller buildings where they do not have tenants' associations and where they often have the biggest turnover?

**Hon. Mr. Elgie:** I do not know for certain, but that is certainly possible.

**Mr. Haggerty:** The other area I am concerned about is the transaction of rental units from one developer to another within a certain group. You may call it pyramiding sales, I do not know.

Would the minister in his statement include if there has been any government funding or assistance given to the construction of some of these apartment buildings? I believe there have been programs in the past where someone had received federal grants to build high-rise apartments here.

**Hon. Mr. Elgie:** I do not know that. Is that something we could ascertain?

**Mr. Crosbie:** I am not sure; we will look into it.

**Mr. Haggerty:** I think it is rather important if somebody obtained government grants and then—

**Mr. Crosbie:** I am not saying that it cannot be obtained, I am saying we will look into it and see if we can—

**Mr. Philip:** A limited dividend.

**Mr. Crosbie:** Yes, you are talking about a limited dividend building.

**Hon. Mr. Elgie:** That is not a grant, is it; a limited dividend building?

**Mr. J. A. Taylor:** Ninety per cent financing. Control over rents is implicit.

**Mr. Haggerty:** They are subsidized to assist in construction of high-rise buildings in a crisis period when housing units are needed. I think in this study you should be looking into this particular area to find out if there has been some government involvement.

**Hon. Mr. Elgie:** We will see if we can possibly find anything out about that.

**Mr. Haggerty:** You mentioned the 20 per cent turnover there is in residential—

**Hon. Mr. Elgie:** Rental accommodation.

**Mr. Haggerty:** Yes. I am rather concerned about that because that is a problem I find around Toronto. The rents are beginning to get pretty high and the incomes have not increased that much.

**Hon. Mr. Elgie:** I do not think that is an unusual figure. I think that is a pretty standard figure.

**Mr. Hermant:** There has apparently been a fairly standard turnover over the years. Rental housing surveys have indicated that average year after year.

**Mr. Haggerty:** But I think this latest development is that tenants have received notices of substantial rent increases, whether it is under the old section of the act or the new section. Many single individuals—I am thinking in particular of some of the nurses who are working in some of the hospitals here in Toronto and are finding it rather difficult to maintain an apartment on their own.

I am just suggesting you might find more people in Toronto moving out to smaller centres and looking for job opportunities there instead of Toronto.

**Hon. Mr. Elgie:** I would like to think you are overlooking the fact that some three years ago, 90-some-odd per cent of landlords did not go to rent review. Is that an accurate figure?

**Mr. Hermant:** About three years ago only about five per cent of all the units in Ontario applied to rent review. That has been increasing

in recent years, but it is now somewhere about 17 or 18 per cent.

**Hon. Mr. Elgie:** So about 83 per cent still do not go.

The Financial Post had an interesting article in September, showing the two cities that had the lowest rents in the country were Ottawa and Toronto, on average. The average rent increases have been much below inflation for many years.

It is a difficult problem. I do not think you can say the turnovers have anything to do with the number of buildings which have gone to rent review.

**Mr. Swart:** If I could make a supplementary comment which I think is relevant, it may be true that only 17 per cent, or whatever the figure is now, go to rent review each year, but we all recognize the main reason for rent review is where there is refinancing, where there is a substantial increase. I have found we are getting — and I dare say I have handled more cases than anyone else in this room —

**Mr. Philip:** I beg your pardon?

**Mr. Swart:** In any event, I handle on the average of one a month.

**Mr. Philip:** I have two or three cases.

**Mr. Swart:** What you have, in effect, is a big 25 or 30 per cent increase this year. Once that refinancing is completed, then the six per cent increase each year is satisfactory because it is based on that huge increase they had the year before.

**Hon. Mr. Elgie:** It is built into what they have to pay.

**Mr. Swart:** It is built in, so those people are suffering even though they do not have an application every year for more than six per cent. It is such a jump at one time that it is built in the following year, as you are saying. I do not think we should pat ourselves on the back because only 17 per cent of them are applying for more than six per cent.

**Mr. Haggerty:** I have one more question in regard to the minister's statement on page 10, where it says, "In the expectation that we will be able to introduce comprehensive legislation no later than the fall of 1983. . ." I take it from that that you are perhaps going to have a whole new bill before the Legislature on rent controls. Is that what you are trying to tell me?

4 p.m.

**Hon. Mr. Elgie:** Of course, it will depend on what the recommendations are. I would expect that, if there are recommendations, the gov-

ernment will review them and I would anticipate introduction of amendments or new legislation in the fall.

**Mr. Haggerty:** You would bring that in, perhaps, before a provincial election?

I have a letter here and I thought I should read it into the record.

**Hon. Mr. Elgie:** Whatever you want, Ray. I always do exactly what you want.

**Mr. Haggerty:** You talk about flip-flop, I was just wondering —

**Hon. Mr. Elgie:** Whatever you want.

**Mr. Haggerty:** I just can't understand that paragraph. This is addressed to Mr. William M. Kelly, PC Ontario Fund. It says:

"Dear Mr. Kelly:

"Your letter of April 8, 1982, is on hand asking for contributions to the Ontario PC party."

I won't read the nasty remarks that he has put in here about the PCs, but it says —

**Mr. Swart:** Go ahead, Ray; read them out.

**Hon. Mr. Elgie:** Let's find out the kind of friends you have.

**Mr. Haggerty:** All right, Mel talked me into this.

He says: "I will not be contributing to the party this year. Please convey to our Premier" — the word "our" again — "Mr. Davis, he has more than my share which he has taken from me in equity in rent controls. You see, I am an Ontario landlord with 300 rental units. This is the only industry in Ontario on which Mr. Davis has placed wage and price controls."

That is true, that is a good statement.

"Prior to Mr. Davis' last election, the Ontario Landlords Association met with the Housing minister and we were assured if we, as Ontario landlords, would support the party and not make any waves prior to the election, we could expect the controls to be phased out if the PCs could obtain a majority."

It will be interesting to see which flip-flop we take now.

**Mr. Swart:** That's interesting, isn't it?

**Hon. Mr. Elgie:** Go back and quote Stuart Smith, "I expect rent controls will be off by 1980 or 1981." They're still here.

**Mr. Philip:** You don't have to go to Stuart Smith, you can go to an amendment by the Liberals in 1977 which would have phased out rent review entirely.

**Mr. Haggerty:** What is your opinion of that letter?

**Hon. Mr. Elgie:** You have your friends, Ray.

**Mr. Haggerty:** They're your friends.

**Mr. McKessock:** It's a flip-flop again.

**Mr. Haggerty:** That's what it is.

**Hon. Mr. Elgie:** I think what the letter reveals is the frustration of a lot of individual landlords who have held their property and have invested in that as their income or an important source of income and they are feeling frustrated. I don't know what the answer to it is, as I am sure you don't.

**Mr. Haggerty:** Will the answer be found in this commission's report?

**Hon. Mr. Elgie:** I hope that Thom hears from people like that and gives us his considered, nonpolitical view as to what approaches one might look at.

I don't want to imply that when you get this in the political arena there are those who try to make use of the process. Far be it from me, naive, humble surgeon that I am, unaware of the world's problems, to suggest that, but if I didn't I would be remiss in not telling you.

**Mr. Swart:** I wouldn't have believed that about your character until the Rosenberg incident.

**Mr. Haggerty:** I was interested in an article—I don't happen to have it with me today, but—

Interjection.

**Mr. Haggerty:** Well, it is, but I thought it was a good point when I raised the matter of that letter.

**Hon. Mr. Elgie:** Is he voting Liberal now?

**Mr. Haggerty:** No, no.

It is about an incident that took place in Buffalo, New York, where they are building a new Hyatt hotel; it was interesting. They said, "Why would you want to build a hotel at this particular time with a depressed economy and high interest rates?"

The answer was, "We got a good deal on interest rates."

The reporter said, "Where did you get that from?" "We got it from the construction industry, the union." The union in the United States put up sufficient funds to build that huge hotel there.

**Hon. Mr. Elgie:** A good investment.

**Mr. Haggerty:** A good investment.

**Hon. Mr. Elgie:** You are not against them making good investments, are you?

**Mr. Haggerty:** It is interesting that the unions would invest money from here—all the money from here goes to the United States—in real estate over there.

**Mr. J. A. Taylor:** What are you going to do about that?

**Hon. Mr. Elgie:** Today?

**Mr. J. A. Taylor:** Any time.

**Mr. Philip:** I shall not even comment on that untrue statement just made that all the union money goes over to the States. It is not worth a reply.

**Mr. J. A. Taylor:** You can't dismiss it that summarily. Here is a man who knows about it.

Interjections.

**Mr. Philip:** The figures you are quoting are about as accurate as your research in other things.

**Mr. Chairman:** Let us try to get back on track here, on the Ministry of Consumer and Commercial Relations.

**Mr. Philip:** I want to talk to the minister about a matter that I consider to be fairly important. I think he has been avoiding it: that is, essentially, his powers under the act.

I know of no act that has a tribunal that does not have a clause similar to subsection 91(2). In other words, subsection 91(2) is the one which gives the minister the power to set policy and to demand of the tribunal certain actions and certain information. There is a distinction between that and interfering in the particular, specific decisions that happen to be before it.

Subsection 91(2) says that the commission shall make further reports to the minister and provide him with such information as the minister may from time to time require.

That is basically the subsection which gives you the power to request certain information, to request, and indeed to tell the board, through policy statements or through directives, what the policy is; not whether Cadillac gets a particular percentage on a particular building, but rather what the policy should be in dealing with cases in general, some of which may involve Cadillac or other companies.

I want to make it clear that, despite all of the information you and your predecessors had when you first met with the Residential Tenancy Commission and when you had this discussion as to what they were going to do in preparing their next report to you, it was only the financial pass-through that you discussed,



you said you did not even give them a directive to look into that. Is my understanding correct?

**Hon. Mr. Elgie:** I said those were issues that we discussed and they were asked if they would give them consideration.

**Mr. Philip:** What do you find so wrong about exercising the powers you have under the act in giving a fairly clear directive to a tribunal that there was a problem and that they should come back with policy suggestions to you, on financial pass-through, on the various other matters that I and the various tenants' groups have pointed out to you, on the problems of speculation in the housing market, on the problems of illegal rent increases, on the whole problem of certain landlords violating the Residential Tenancies Act and on the small amount of penalties, the repeated incidents involving the same parties in violation of the act?

Why would you not at that time have said, as the new minister, "There are certain things that are going wrong in rent review, that are going wrong in the Landlord and Tenant Act, and here are the things that I want my key people to report back to me"? Why would you not exercise that power you had under the act?

**Hon. Mr. Elgie:** I may ask my deputy to interpret the act for your interest.

I have been endeavouring to comply with what I have been advised was the spirit and intent of the act. Maybe you can comment on that. I do not think it is a new position that ministers have taken in this area.

**Mr. Crosbie:** Yes, minister. Subsection 91(2)—

**Hon. Mr. Elgie:** He sounds rather like that TV program, "Yes, Minister," doesn't he?

**Mr. Crosbie:** I give him all the information he needs to know.

**Mr. Breithaupt:** He said it very well.

**Hon. Mr. Elgie:** He just gives me what I need to know.

**Mr. Crosbie:** Mr. Philip, I would read subsection 91(2) not as creating any powers in the minister to direct the affairs of the commission but rather to require reports and provide information on what it is they are doing.

I think there is a significant and substantial difference between a power to request a report and a power to direct what the report should consist of, or what action the commission shall take which subsequently becomes the subject matter of the report.

If you look at section 81, under the duties of the commission, you see that the commission—

**Mr. Philip:** May I just stop you at that point then, just while we have that, and highlight it? What I asked the minister as to what he did or did not do, was not did he direct the content but rather did he direct what it was that was to be investigated and reported back. He said he did not do that. You are saying he does have that power.

**4:10 p.m.**

**Mr. Crosbie:** It may be a question of semantics. As I understood what the minister was saying, it was that he did not order the commission to do certain things, "Go out and change this guideline so it reads this way," or, "Prepare a guideline in such and such a way."

**Mr. Philip:** That is not what the minister and I understood.

**Mr. Crosbie:** I understood that what the minister has said here this afternoon is that at those meetings with the commission, at which they discussed the various problems the commission was faced with, the minister requested them to come up with recommendations. If you look under clauses 81(c) and 81(b), the commission "shall periodically review this act and regulations and recommend from time to time amendments or revisions." As I understood the purpose of the meetings it was to have the commission come up with recommendations on how they could better deal with this act.

**Mr. Philip:** I don't know how much more clear and specific I can be. The minister has certain powers. He has the power to say, "We have certain problems I want you to investigate and report back to me." He did not do that. That was clear from his testimony.

No matter how you may try to fudge it, it simply will not work. He didn't do it. He has the power and he didn't do it.

**Mr. Crosbie:** With respect, I think it is semantics. You are saying, "He did not direct them." We discussed it; the minister discussed it with the commission. The commission agreed to look into certain things and come back to him.

The fact is he did not have to give some sort of formal directive that, "You shall do thus and so." He got back the report and certain guidelines have been implemented by the commission as a result of it.

**Mr. Philip:** When he and the commission were asked what specifically, related to the problems we are now discussing, it was understood that they would study, the only thing was the pass-through. I am saying that if that was the

case, then the minister failed in his responsibility under section 91 of the act.

**Mr. J. A. Taylor:** Mr. Chairman, with respect, I was listening very attentively. Mr. Philip, you put a question to Mr. Hermant. You asked if, on May 5 if I am not mistaken, there were specific items that were recommended and reported on. The answer was that he could not remember them all. He mentioned specifically, if I am not mistaken, the matter of pass-throughs, and the indication was that there were others.

I don't think you are taking that answer into consideration in the accusation you have made just now.

**Mr. Philip:** I am taking it into consideration. It damns him even more, because here we have a serious problem, one that the tenants and our party has been playing out for five or six years. He can only remember one thing then, that he thought he may have had some direction on to investigate.

**Mr. J. A. Taylor:** It is obvious from your line of questioning that you are trying to get the minister to look as though he was manipulating the commission. I think the posture adopted by the minister is that that is not his style, he does not manipulate people or commissions. He discharges his responsibilities in a responsible way.

**Mr. Philip:** We have been through this whole thing in the transport board inquiry in which the minister failed abominably, in his responsibility as the minister, to set down policy.

**Mr. J. A. Taylor:** You are looking for evil where it is not.

**Mr. Philip:** We are running through the same thing here; but interestingly enough, the minister, after that transport board inquiry, introduced a new act which then gave him clear responsibilities for laying down policy, and he has subsequently done that.

**Mr. J. A. Taylor:** You want to be a hero. If you want to delude yourself, you go ahead.

**Mr. Philip:** All right. You fellows do not seem to learn from history.

Interjections.

**Mr. J. A. Taylor:** The game of character assassination that went on there, if you want to carry on in that vein, was disgraceful. If I were you I would not confess to participating as you did on that.

**Mr. Philip:** I not only participated. I initiated the thing. I take full credit for it.

**Mr. Chairman:** Perhaps we can get back to some questions.

**Hon. Mr. Elgie:** I suspect that you and I just have a different interpretation of section 91. I do not read it as saying, "Do this and do that." I just read it as, "The commission shall make such further reports to the minister and provide him with such information as the minister may from time to time require." The word is "information." You and I read the word "information" differently.

The position the member for Prince Edward-Lennox has stated is really the position I have endeavoured to take from the interpretation I have made of the act and from the interpretation the staff have made of the act. I think that to do otherwise puts me in some jeopardy.

**Mr. Philip:** Then let me try it this way, Mr. Minister. I would have more confidence in you as the minister, and in the way the board operated, if you were to, on a quarterly basis, say, "These are the things that I would like the commission to report back to me on, and here are the problems that I feel should be looked at." Then we could see in fairly clear terms what you were asking for in a report back, what the report was, and then which policy recommendations, if any, you accepted and rejected.

That would clearly show some responsibility and some leadership on your part as the minister. The role of the minister in the case of tribunals is to set policy clearly after obtaining advice, and to order information on which that policy can be made. It is not to interfere in the day to day operations of the tribunals, and no one is suggesting that you do that. But surely you have got a leadership role in setting policy.

**Hon. Mr. Elgie:** I have exercised the role in the way that I see is appropriate, with respect to the reported issue of conflict of interest. I met with them. We discussed the issue. They went back and reviewed it from their point of view and made certain determinations, as I did from a public policy point of view in my place with respect to subsequent appointments there.

Similarly in the matter we are discussing now, I met with them and we had a discussion about the issues. I expressed some of my views. They expressed some of theirs. Then they went off and reviewed certain matters.

I think for me to start, to use the words of the member for Prince Edward-Lennox, "manipulating the commission," is not the role the act contemplates. I understand we may have an honest difference of opinion there, but my

behaviour is based upon an interpretation of the act as it has been given to me by my legal staff and by the ministry.

**Mr. Philip:** If you are honest—and I do not dispute your honesty—then you know I have never suggested that you be in a manipulative role. Indeed, I would be the first to attack you if I ever caught you at that.

**Hon. Mr. Elgie:** I know that, you old son of a gun, you.

**Mr. Philip:** Incidentally, your greatest protection in not being accused of a manipulative role—the role of which certain people have been accused, manipulating tribunals, over the years in this province—is to clearly have policy directions and let the tribunal work under the policies, not under manipulation. Once you have a policy vacuum, then it is open to manipulation. We saw that in the Ontario Highway Transport Board among other things. In that case it was an absentee minister, not manipulation by the minister.

I wonder if I can ask you a question referring to page 11 of your statement, in which you say: "At the same time as the commissioner is reviewing the current rent review legislation, the Ministry of Municipal Affairs and Housing will be carrying out a thorough analysis of the overall housing market and examining conditions prevailing in both rental and private housing areas."

Asking the Minister of Housing to come out with another paper on rent review—this is the minister who is on record as opposing rent review in principle in the first place—do I take it that you are not satisfied with the report of the Ministry of Municipal Affairs and Housing that was tabled this summer?

**Hon. Mr. Elgie:** I would suggest the report he tabled this summer was not prepared for this purpose. This report has been directed to respond to the purpose outlined in this document.

**Mr. Philip:** Then you do not feel it was their mandate this summer to look into at least the conditions of current prevailing rental areas?

**Hon. Mr. Elgie:** Whatever their mandate was at that time, the mandate they are given now is clearly documented on page 11. You can ask the Minister of Housing.

**Mr. Philip:** Mr. Chairman, if I may help the minister—

**Mr. Gordon:** I have a point of order for the New Democrats.

**Mr. Chairman:** Point of order. I have your name down next, Mr. Gordon.

**Mr. Gordon:** I have the feeling that you are trying to hog time, and I never say that about you.

**Mr. J. M. Johnson:** It is only fair that Mr. Philip gets five hours and the rest get 20 minutes.

**Mr. Philip:** Some of us do have certain responsibilities.

**Mr. Chairman:** I do have Mr. Gordon's name down as the next speaker.

**Mr. Breithaupt:** How much time do we have left?

**Mr. Chairman:** We have exactly half an hour. 4:20 p.m.

**Mr. J. A. Taylor:** Do you not think you should be fair, Mr. Chairman? I would not want to accuse you of being otherwise.

**Mr. Breithaupt:** I am sure the chairman will be fair.

**Mr. J. A. Taylor:** How many hours does the New Democratic Party have?

**Mr. Chairman:** Two hours and four minutes, plus another 15 now, two hours and 19 minutes. The Liberal Party has had two hours and two minutes. The Progressive Conservatives have had a total of five minutes.

**Mr. J. A. Taylor:** Do you not think, as a champion of the weak and the oppressed, you should let Mr. Gordon go ahead?

**Mr. Swart:** Do you feel depressed today? I do not blame you if you do. With what is happening in rent review, you should feel depressed.

**Mr. J. A. Taylor:** I did not say depressed, I said oppressed.

**Mr. Philip:** Mr. Chairman, I always assumed that the minister was a Conservative. I realize that Claire Hoy has doubted that at times, but I assume that you count in the time when the minister is speaking.

**Mr. Chairman:** Then it would be a little bit in excess of five minutes. He is responding to questions raised by certain members of the committee.

**Mr. Philip:** But it also gives him an opportunity to present the government's views.

**Mr. Chairman:** Perhaps you would like to proceed, Mr. Philip.

**Mr. J. A. Taylor:** With brevity.

**Mr. Chairman:** Yes, with brevity, and give Mr. Gordon a chance.



**Mr. Philip:** What I find interesting in this report by the Ministry of Municipal Affairs and Housing, a report that advocates the abolition of rent review incidentally, and which therefore is going in the opposite direction to which the minister seems to be taking in this policy paper he has tabled, is that there is a questionnaire in this review which clearly asks for landlord financial data to be collected.

I wonder if the minister has any idea—I would think this would be one of the first reports he would read as the minister responsible for rent review—why is it that the government would have commissioned the study, would have had questions that deal with financial aspects of rent review and then not report on it?

**Hon. Mr. Elgie:** As you said to Mr. Johnson recently, the minister who is responsible for that report and that ministry is not here today. I am not going to answer for him.

**Mr. Philip:** It was your decision, though, to tell that same minister to come back with a report to you on matters, if not directly related, are somewhat related, particularly the whole aspect of your report which deals with financial pass-through. Yet that one area that is clearly within the mandate of this report and that was part of the questions of this report, was not reported on.

**Hon. Mr. Elgie:** The Minister of Municipal Affairs and Housing has agreed to the terms of reference as set out under number 3 on page 11.

**Mr. Philip:** So you went to him then and said: "Look, the report you tabled this summer was not good enough. Do it over, because I want some more information." Is that correct?

**Mr. J. A. Taylor:** He would not talk to anyone that way.

**Hon. Mr. Elgie:** I said that the Minister of Municipal Affairs and Housing has agreed with the terms set down here. Indeed, he has taken part in assisting in drafting them. It is not a matter of me going to him and telling him anything. It is a matter of me sitting down with him as a colleague and asking if it is possible to provide this kind of information and is he going to do it.

**Mr. J. A. Taylor:** Shame on you.

**Hon. Mr. Elgie:** How dare you.

**Mr. Philip:** You do agree that the report that was tabled this summer by the Minister of Municipal Affairs and Housing is inadequate for the purposes that you now are asking him to look at?

**Hon. Mr. Elgie:** I agree that I have asked him to look at certain areas and he has agreed to do it.

**Mr. Philip:** In asking him that, being familiar with the report, as I am sure you would be, since you are not going to ask him to do a second report without reading his first report, did it not occur to you to ask him why he did not table the financial data? It would certainly have shed light in helping you with the problem that is before us. Did it not occur to you to ask him for that information or what happened to it?

**Hon. Mr. Elgie:** I was interested in providing the information that is outlined on page 11. That is what he is going to do.

**Mr. Philip:** Did you not ask him why he did not provide it when it was part of his original report to begin with?

**Hon. Mr. Elgie:** I asked him if he would do the things that are outlined on page 11, and he has agreed to do them.

**Mr. Philip:** Did you ask him why he did not do it, in spite of the fact that was part of the question?

**Mr. Gordon:** Is this a courtroom?

**Mr. J. A. Taylor:** Is this a preliminary hearing or is this the trial?

**Hon. Mr. Elgie:** As Jerry Brown would say, what is the centre of this experience? Come on, now.

**Mr. Chairman:** I think you got the only answer you are going to get at the present time.

**Mr. Swart:** You should stop the minister's colleagues from running intervention for him. I would not say that he is totally capable of handling himself, but he does pretty well. They just cloud the whole issue.

**Hon. Mr. Elgie:** I do not know if I want to take that kind of compliment. I might be in trouble.

**Mr. Chairman:** Mr. Philip, could I move on to Mr. Gordon's questioning?

**Mr. Philip:** Would you at least do this for us? Would you at least ask the Minister of Municipal Affairs and Housing, because you are a more approachable sort of fellow than the Minister of Municipal Affairs and Housing—

**Hon. Mr. Elgie:** I do not know if I agree with that. Come on, now. You and he might find areas of common interest that would make it a very exciting occasion for you.

**Mr. J. M. Johnson:** Why don't you let the member for Sudbury (Mr. Gordon) speak?

**Mr. Chairman:** The clock is running, Mr. Philip. I would like to go on.

**Mr. Philip:** I have a line which, off the record, you will enjoy in response to that one, but I will not put it on the record.

Would you not at least go to him and ask, "Since you will not give the information to the opposition, would you at least table the financial data you received from your questionnaires?" Would you do that and report back to us?

**Hon. Mr. Elgie:** I have gone to him to ask for the information that I think is important to the process I have outlined in the statement I made.

**Mr. J. A. Taylor:** I have a jackhammer, Mr. Minister, if you want to perform something bodily on that gentleman.

**Hon. Mr. Elgie:** That operation is passé now; I introduced amendments to the Mental Health Act that would make it very difficult.

**Mr. Gordon:** Mr. Chairman, really the only question I have not heard is, what are you going to do about it? I guess that is something that comes from the Leader of the Opposition (Mr. Peterson).

What I was concerned about was some of these landlords who in the process of switching their apartments over to apartment hotels and then applying for an exemption under the Residential Tenancies Act. What is going on in this field at the present time?

**Hon. Mr. Elgie:** Could you comment on that, Mr. Hermant? I am afraid I do not have the data on that.

**Mr. Hermant:** In recent months, several cases of landlords attempting to change the method of operation of a building, to try to bring it within the exemption provisions of the Residential Tenancies Act and thus attempt to escape the application of the rent review provisions to that particular building, have come before the commission. Commissioners are looking at those situations and carefully scrutinizing the exact method of operation. It is a question of fact in every case.

If what the owner has done is merely add some furnishings to an otherwise ordinary apartment building, it will likely be treated more as a capital expenditure rather than an exempt unit. But, if the commissioner finds that a particular owner has changed the operation and is operating in such a way as to be dealing with transient occupants and really does come within the provisions contemplated in sections allowing

exemptions, the commissioner may very well rule that it is exempt from the act.

It depends on the facts in each particular set of circumstances.

**Mr. Gordon:** Is that something that comes up frequently?

**Mr. Herman:** Not frequently, but it has been before the commission on four or five occasions in the last year.

**Mr. Gordon:** Given the current economic circumstances and so forth, I would imagine that there is perhaps a greater demand for this type of accommodation. Would that not be something that would cause a further demand for switch-overs?

What is this going to do to the act? What are you doing about it? Are you going to commission a study or just listen to what your commissioners have to say? What is really happening in this field?

**Mr. Breithaupt:** There are people not doing this sort of thing.

**Mr. Hermant:** As I say, there have been a number of applications made to the commission on the basis of this kind of situation requesting exemption. As far as I know, in perhaps one or two cases there have been exemptions made where a building really is being operated for transient accommodation.

In more cases than not, however; it is merely a matter of adding furniture to an otherwise ordinary apartment building. The commissioners have found that it is not being operated for transient accommodation and treat it as subject to the act.

**Mr. Gordon:** How do you determine this term "transient"?

**Mr. Hermant:** If the operation of the building is designed for essentially short-term occupancy. 4:30 p.m.

**Mr. Breithaupt:** Set up a front desk or something like this, or hire a bellhop?

**Mr. Hermant:** Not necessarily, but they have to look at all of the circumstances surrounding the operation of the building. If he can make a finding that it is being operated for transients, then the commissioner can make an order finding it exempt from the act.

**Mr. Philip:** Why don't you talk to Bud Germa? I understand he knows of a hotel in your riding that has a high transient population.

**Mr. Gordon:** That could very well be, but we are not going to comment on that. I would not say anything along those lines.

**Mr. Chairman:** As the Speaker says, ignore the interjections.

**Mr. Gordon:** I would not want to comment on the former member for Sudbury. I think he did the best he could under the circumstances. He could not help it if he was saddled with some negative people around him. That happens from time to time. I would not say that. Nevertheless, I would like to know a little more about this business.

**Mr. Philip:** He rarely flipped. We were talking about flips earlier in the day.

**Mr. Gordon:** Flipping, you know all about flipping. You saw how Broadbent came out and said that—

**Mr. Chairman:** Order, Mr. Gordon.

**Mr. Gordon:** Wait a minute. I have heard these fellows carry on. I object to that. I object to the fact that you let the New Democratic Party carry on and on all over the ball park. Liberals can do the same, but the Tory member for Sudbury cannot.

I really think that is not fair. They can make remarks but I cannot say anything. That is really intolerable. I object to your ruling.

**Mr. Chairman:** Go through the chair. Just talk to the chair. Ignore the opposition.

**Mr. Gordon:** I want to make a point.

**Mr. Philip:** On a point of order, the Liberals have behaved themselves. It has been us that have been doing it, and I do not think you should malign the Liberal Party today.

**Mr. Breithaupt:** That is very kind of you.

**Mr. Gordon:** Mr. Chairman, you realize I waited until after the cameras and the lights were turned off. I waited until this later hour. I have to reply. On a matter of personal privilege, I think he is impugning my integrity to hold me up as someone who flip-flops when I see what that party does. On the federal level, they talk about taxing away those firms that are not doing as well and giving it to somebody else.

**Mr. Swart:** What about nationalizing Inco? Do you think that is something we should look into?

**Mr. Gordon:** Here we have Inco in terrible shape at the present moment. This is one of the firms they would tax away. Yet on the other hand in Sudbury they are calling for subsidization of the nickel stockpile, which perhaps should be explored. At the same time, they flip-flop back and forth.

**Mr. Philip:** At least we say the same thing.

**Mr. Gordon:** Really, you people should not hold yourselves up as paragons of virtue.

**Mr. Swart:** We show up for the votes.

**Mr. Gordon:** I know you are sanctimonious, but that is beside the point.

**Mr. Chairman:** I am not singling anyone out. I wonder if all committee members could get back to these estimates.

Mr. Gordon, please continue with your questions.

**Mr. Gordon:** Okay, I do not want to get anyone upset here. I want to go right back to what you were saying about these apartment hotels. Is this something that is peculiar to Toronto or is this something that is occurring in some of our smaller centres?

**Mr. Hermant:** I do not know if it is occurring in some of the smaller centres. I do know there have been one or two applications made in Ottawa on a similar arrangement. I do not know what the situation is outside Toronto and Ottawa. Those are the only two municipalities in which I know of applications having been made for transient accommodation.

**Mr. Gordon:** You are basing this transient business on something to do with furniture?

**Mr. Hermant:** The accommodation must be designed for transients. The exemption section reads, "This act does not apply to transient living accommodation provided in a hotel, motel, tourist home, or hostel or other similar accommodation." It is the "other similar accommodation" that usually captures the type of conversion I think you are talking about.

If they have changed their method of operation to provide in a former apartment building accommodation designed for transient living, and if the commissioner can make that finding, he could very well exempt that building from the operation of the act. If he cannot make that finding, of course, he will find that the act does apply and he will continue, make a determination of the act applying to the entire complex, and make his finding on the basis of the ordinary criteria.

**Mr. Gordon:** Do the municipalities have to approve of that zoning change?

**Mr. Hermant:** I do not think so, unless it is operated as a straight hotel.

**Interjection:** Not necessarily?

**Mr. Swart:** Usually—

**Hon. Mr. Elgie:** I would have thought they usually would.



**Mr. Hermant:** They might have to be licensed under the Innkeepers Act as well.

**Mr. Gordon:** How does this work with the bachelorette problem they had in Toronto? The city council here passed—

**Mr. Breithaupt:** Those were illegal conversions of property, were they not, in areas that were not properly zoned for—

**Mr. Hermant:** No, those were contraventions of zoning law.

**Mr. Gordon:** It had nothing to do with this business of switching—

**Mr. Hermant:** I think that problem predated the enactment of the Residential Tenancies Act by some considerable time.

**Mr. Gordon:** There has been no move in this major metropolitan area to get into, for example, these conversions on the basis of providing more accommodation for more transient—

**Mr. Hermant:** Not what you would call a major move. As I say, we have had a number of applications, but a not a significant number. Probably half a dozen or maybe eight or nine.

**Mr. Gordon:** What do they usually state when they make an application like that? What do they usually say? "We just want to serve the transient population or—"

**Mr. Hermant:** Yes. Often they make an application just on the basis of jurisdiction, to get a decision from the commission that the act does not apply to the particular complex. If the commissioner makes that finding, then the matter is disposed of in that way.

If the commissioner cannot make a finding that it falls within this exemption, then the commissioner will require the applicant to file a cost-revenue statement in the usual way during the hearings. They will later make a determination on the merits of an ordinary rent review.

**Mr. Gordon:** I see. Last year you had quite a demand for more rent review commissioners and so forth and so on. We have listened here today to a lot of discussion about the importance about what is going on within your ministry.

I often wonder about people who are brought on as part-time commissioners and so forth—I do not know quite how to express it really. Not that I think for one minute that people should not be given the opportunity of serving, even on a limited capacity, but at the same time, I have to wonder how you determine whether someone can really best serve the tenants, the landlords and the public on a part-time basis. I

have to question that. I have other questions about that as well that I think need to be raised.

**Mr. Swart:** Conservative allegiance.

**Hon. Mr. Elgie:** The appointment of the part-time commissioners, as you know, preceded my appointment to office, but I think the purpose was to allow these part-time commissioners to deal with smaller buildings that could be dealt with within a relatively short time.

We are in the process now of rethinking the role of those part-time commissioners, or at least a portion of them, because I feel we need some of them on a per diem or per half diem basis, so they can get into some of the larger buildings and relieve some of the burden on the full-time commissioners.

To date, as I understand it—and Mr. Hermant will comment on it—part-time commissioners by and large have dealt with smaller buildings. Is that a fair—

**Mr. Breithaupt:** How many have there been?

**Mr. Hermant:** Part-time commissioners? I think there are 29 or 30. There are 29 or 30 part-time commissioners, all of whom are members of the bar.

They are hearing cases on a per-case basis. They are hearing them after hours, evenings, some during the day, but often in the evenings. They are increasing the capable productivity of the commission in that respect. It is hoped some of these part-time commissioners will be able to hear some larger cases shortly.

**Mr. Gordon:** So would you say it has become a training ground for future commissioners?

**Mr. Hermant:** It was not intended as that primarily. It was intended to help, in an overload situation, to attempt to get increased productivity of cases heard. It may be that some of those part-time commissioners may be interested in full-time appointments in the future.

4:40 p.m.

**Mr. Gordon:** I would not want to think you are necessarily favouring one group over another. We would not want to see that happen, would we, Mr. Swart?

**Mr. Swart:** No, especially on the lawyers.

**Mr. Gordon:** That is right. I would not say something like that. Nevertheless, is there any possibility—

**Mr. Swart:** I only said it for Mr. Nixon, because he was not here.

**Mr. Gordon:** Is there any possibility, now that

this act has been in force—for how many years now?

**Mr. Hermant:** Three years.

**Mr. Gordon:** Are there any courses being offered in the college system?

**Hon. Mr. Elgie:** Not that I know of, but it is not a bad suggestion. The commission itself runs courses for the new commissioners and the new part-time commissioners.

**Mr. Gordon:** When you consider there will be an awful lot of people in this province with a great deal of intelligence and energy and determination and common sense, I should think at least one of our colleges should be encouraged to develop a course along these lines. It is something to think about.

I have one last question, really. This time I will not have another one.

**Mr. Breithaupt:** This could be your second last question.

**Mr. Gordon:** Yes, that is right. I am trying to muddle my way through here.

How many other provinces have rent review and how do we compare as far as holding down rents in this province is concerned?

**Mr. Hermant:** I think all provinces, except for Alberta and New Brunswick, have some form of rent review system at present. Manitoba discontinued its rent review process for a time, but it recently enacted a new piece of rent review legislation.

**Mr. Swart:** I wonder why? It does not come as much of a surprise.

**Mr. Hermant:** I do not have any statistics as to what the relevant rate of success in holding down rents has been.

**Hon. Mr. Elgie:** The only statistics I have come from Statistics Canada and they were published in the Financial Times on October 18, 1982. If you do not mind me quoting some figures, as of August 1982, Canada's average rent increase over a 12-month period to August 1982 was 9.7 per cent.

For the various cities, Ottawa was 7.1 per cent—that is the lowest in the country on the data they surveyed—Toronto was the second lowest at 7.6 per cent; Winnipeg came next with 9.7 per cent, right at the nation's average; Halifax was 10.3 per cent; Montreal was 11.2 per cent; Vancouver 11.2 per cent; Edmonton 12 per cent; and Calgary 17 per cent.

**Mr. Swart:** The two highest ones are where

they have removed rent review—Edmonton and Calgary?

**Hon. Mr. Elgie:** That is right.

**Mr. Gordon:** There is no doubt about it that, given the economic circumstances today, tenants face some very real problems with increased costs, no matter where they are living in North America. The same could be said to hold true for landlords.

We often hear it said by some people—and I do not know what validity it has—that rent controls are a negative feature when it comes to building further rental properties, whereas other people say it is something that can be managed and has been managed in other countries so there was sufficient accommodation.

Have you ever given any thought to providing information to this committee during the estimates, so we could have a better idea as to whether or not it is a positive or a negative feature? I think I have heard more negative remarks about rent controls than I have positive remarks.

**Mr. Philip:** Particularly when the Ministry of Municipal Affairs and Housing publishes a report that says that.

**Mr. Gordon:** We are trying to have some kind of a—

**Mr. Philip:** If you do not even read your own colleague's reports—

**Mr. Gordon:** —logical discussion here, one that is not emotionally laden. Can you give us any ideas on that?

**Mr. Philip:** I am just trying to give you some information.

**Hon. Mr. Elgie:** You are trying to help, we know that. You are a very helpful guy.

I do not have any information on that aspect.

**Mr. Gordon:** Do you have any information about what has happened in, say for example, Sweden? Maybe we should ask Mr. Philip, what has happened in Sweden?

**Mr. Swart:** Maybe you should just ask the minister.

**Mr. Gordon:** No, I am interested. I want information.

**Mr. Philip:** I would be happy to be sent to Sweden to bring back a report. I will be happy to answer that question if you really want to know. What has happened in other jurisdictions? When the Conservatives removed rent review in Alberta, construction starts reached a 13-year low.

**Mr. Gordon:** What year was that now?

**Mr. Philip:** That was a year and a half ago. When the Conservatives removed rent review in Alberta, rents increased an average of 39 per cent in the first year and rental construction reached a 13-year low in that same period. Despite what Mr. Paul Cosgrove, the federal minister responsible for housing, said, there is no direct relationship between construction and rent review. There is a very direct relationship between—

**Mr. Chairman:** How long had the rent controls been on in Alberta before they were removed?

**Mr. Philip:** I do not know how long they were on.

**Mr. Swart:** They were on for quite a time, about the same time they came in here.

**Hon. Mr. Elgie:** The construction in the period you are talking about—

**Mr. Hermant:** I am advised they came on in January 1976 in Alberta.

**Mr. Philip:** The interesting thing is that construction starts seem to be more directly related to—and the minister would probably agree with me—interest rates and accessibility of land. In major urban centres—and this is true throughout North America—there is a decreasing amount of accessible land in the areas where the majority of people want to live. Infilling is more expensive than constructing on vacant farm land, be it in Rexdale or Scarborough. The Rexdales and Scarboroughs of this world are quickly being eaten up.

**Mr. Gordon:** You have given an interesting answer, but I think you also said the reason why they did not have more building there was because of interest rates.

**Mr. Philip:** If the theory is that rent review stops construction, then its removal should have stimulated construction, yet it has not.

**Hon. Mr. Elgie:** Some have said there were impediments there because of the interest rate problems.

**Mr. Gordon:** Or the economy.

**Hon. Mr. Elgie:** And land prices, I suppose.

**Mr. Swart:** Land prices were dropping.

**Mr. Chairman:** We have just about run out of time. We have one minute left, and that would give us just about enough time to take the vote.

**Mr. Swart:** I am wondering if there might be a consensus that we extend the period for discussion of rent review for another two hours. I am not adamant on this, but it appears to me there

are numerous issues we have not discussed yet, such as tenants overpaying their rent with no real procedure for getting that payment back again. I am sure there are others here who would like to further discuss rental issues. I am not going to put a motion. If there is some sort of consensus that we are going to move on to something else—We have 10 hours left, I believe; is that correct?

**Mr. Chairman:** Yes, that is correct.

**Mr. Swart:** It seems to me we could usefully use another couple of hours on this very important issue. There is no other issue at present which is quite as grabbing as this. There are other important issues—I am not going to say there are not—but this is a—

**Mr. J. M. Johnson:** Mr. Chairman, I think we should live up to the agreement Mr. Breithaupt introduced earlier. We could work towards the next two schedules and if we can cut an hour or two off, then by all means we could revert, but I do think, in fairness to the agreement we have committed ourselves to, we should at least take the next session and part of the second session.

**Mr. Chairman:** We do have a total of six additional votes to discuss and our agreement was to discuss on November 24, next week, votes 1502, 1503 and 1504, and on December 1, 1505, 1506 and 1507, so we could schedule our time. Unless you really want to change that and eliminate some of the hours on some of those other votes, we should stick to the agreement. You could maybe tack some time on the end if you want to speed it up a little bit after next week.

**Mr. Swart:** I have never seen that happen yet.

**Mr. Chairman:** No.

**Hon. Mr. Elgie:** We need some time to let the commission staff appear.

**Mr. Chairman:** Yes, that was part of the reason Mr. Breithaupt made the suggestion in the first place, to schedule staff time as much as possible.

**Mr. Philip:** Just before the vote on the Residential Tenancy Commission, may I give them what may be considered as a compliment? I do not know whether they will consider it as one or not.

There are a number of tribunals operating under this ministry, and I think in terms of competence, intelligence and approachability it is at least a thousand times more effective than the Housing and Urban Development Association of Canada home warranty program. If you



think I have been nasty with you—and I do not think I have been—you should drop around and see what happens when they show up.

Vote 1508 agreed to.

**Mr. Chairman:** There is one other thing before we leave. You have had passed to you a letter from the Ombudsman, who is also going into hospital. I do not know how these gentlemen arrange their schedule. However, he has for some time had an appointment for an eye operation on December 8. His suggestion is that he be heard on December 1 or December 15. We will still be on these estimates on December 1. For December 15, we would have to get the permission of the House to change the timing of our estimates. That is the only change we would need.

**Mr. Philip:** Why is he coming here? Why was he asked to appear?

**Mr. Chairman:** This committee is doing the Ombudsman's estimates.

**Mr. Philip:** I am sorry, yes.

**Mr. Chairman:** We have to take them in order.

**Mr. Philip:** You want to get in your last shots at him before he retires 15 years early.

**Mr. Chairman:** No, this is before us. The order is, we have three hours for the Office of the Assembly, three hours for the Office of the Ombudsman and then three hours for the Provincial Auditor. We would have to ask the House for permission to change the Ombudsman and the auditor around.

**Mr. J. M. Johnson:** If a motion is required, I would so move.

**Mr. Breithaupt:** If no one in the committee objects to it, I hardly think the House would mind.

**Mr. Chairman:** Mr. Johnson moves that the committee hear the Ombudsman on December 15.

**Mr. Breithaupt:** If the chairman reports back to the House leaders, the government House leader can decide if it is necessary to bring it before the House. At least, this is our wish and we can proceed that way in the absence of any strain. I do not know why there would be any.

Motion agreed to.

**Mr. Chairman:** We are adjourned until 10 o'clock next Wednesday.

The committee adjourned at 4:52 p.m.

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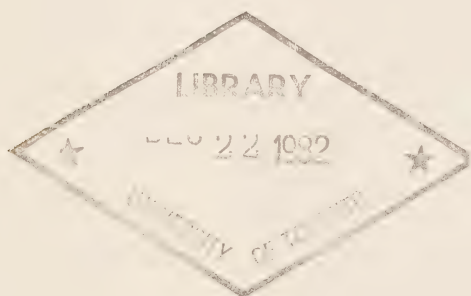
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# Legislature of Ontario Debates

## Official Report (Hansard)

### Standing Committee on General Government

Estimates, Ministry of Consumer and Commercial Relations



### Second Session, Thirty-Second Parliament

Wednesday, November 24, 1982

Morning Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC



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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, November 24, 1982

The committee met at 10:11 a.m. in committee room 1.

After other business:

11:25 a.m.

### ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

On vote 1502, commercial standards program:

**Mr. Swart:** Mr. Chairman, vote 1502 includes the Ontario Securities Commission and business practices on a variety of matters. The Re-Mor issue has surfaced under a number of the sections of this ministry including the OSC. I would like to pursue some questions under this vote with the minister at this time, if I may.

**Mr. Chairman:** Mr. Knowles has to leave; at what time, Mr. Knowles?

**Mr. Knowles:** I should be away by 12 noon or 12:10 p.m.

**Mr. Chairman:** If you have specific questions to Mr. Knowles, could you—

**Mr. Swart:** I do not have any specific questions for Mr. Knowles. They are for the minister on this matter.

**Mr. Chairman:** Can we deal first with questions to Mr. Knowles and then move on? Mr. Swart, you can deal with anything you want after that. Fair enough?

**Mr. Swart:** Okay. But not for too long; I do not want this vote to peter out.

**Mr. Chairman:** We have no time limits on any of the votes today.

**Mr. Breithaupt:** Mr. Chairman, there are two particular things I want to raise with respect to the appearance before us of Mr. Knowles. Before I do that, I think we should recognize that this will be the last appearance of Mr. Knowles before us as chairman of the Ontario Securities Commission.

As someone who knew him in university days, I was one who welcomed his appointment. I can now only say that a couple of years have gone by and here we are at the end of what I believe to have been a most successful tour and a compliment, not only to his abilities but also to the

various aspects of securities operation in which he has been particularly involved.

I am sure the minister and all of us thank Henry Knowles for what he has done over these several years in taking on this most important commitment and responsibility, since the securities legislation within the province and the way it is administered is often followed across the country in the other provinces from the lead that is given here. I thank him for what he has done and I am sure the other committee members and the Legislature do the same.

In raising two things, one that was of interest to me was with respect to Bill 176. As members will recall, I think it was three years ago that we reviewed the securities legislation in the province under Bills 7, 8 and 9. A number of additional changes have developed and been suggested in what is now the legislation before the House. I do not wish to debate in any way the legislation that is before the House other than to find out the intentions of the minister with respect to the completion of that legislation.

It would appear to me that if that legislation is going to be dealt with before we leave at Christmas time, it would be well to know that now, since it would appear that the justice committee's schedule is rather committed for some time to come—almost for kingdom come, I suppose, at this point. I wonder how you see the passage of that bill and can say what a delay in that bill may mean to the operations, particularly of the securities commission.

**Hon. Mr. Elgie:** Mr. Chairman, I introduced the bill and asked for second reading of it because the chairman of the securities commission indicated there were a number of matters he needed confirmed, matters that had been exercised by regulation for a number of years and needed now to have confirmation in statute. He indicated there were other matters that were new which had come before the commission during his tenure of office that he felt were urgent.

I realize there are a number of problems. Certainly the chairman and I are more than willing to do anything we can to expedite the process. He may want to comment further on that.

**Mr. Knowles:** Thank you for your kind remarks.

From the position I have for the next few weeks, I consider that the bill is critical to the administration of securities law in the province. I do not understand your procedures in the House and how they get processed through and become legislation, but there are several orders that have been granted by the Ontario Securities Commission on the premise that this bill would become law. Recognizing the superior position of the Legislature, those orders automatically terminate if the provisions are not enacted into law.

**Mr. Breithaupt:** By a specific time?

**Mr. Knowles:** That is correct.

**Mr. Breithaupt:** What time limit have you set on your orders?

**Mr. Knowles:** The most recent ones would terminate December 31. We do not have a catalogue of the outstanding orders. These would have to be reviewed to ascertain the number of orders outstanding.

**Hon. Mr. Elgie:** Can they be extended, Henry?  
11:30 a.m.

**Mr. Knowles:** They could be amended. The commission would have to be persuaded that it was not contrary to the wishes of the Legislature that the law be extended by way of commission order.

There are a couple of critical new provisions in the bill which I do not want to get into; it is not the appropriate time to do that, I understand. Some of them have to do with recognition of new self-regulatory organizations in an attempt to take advantage of the economies that can be effected by relying upon the reputable self-regulatory organizations to assist in the administration of securities law, and also to consult with panels of private sector personnel rather than have to importune the minister for additional civil servants to carry out certain responsibilities.

From our point of view, ours being the commission in this connection, we consider it critical that it go through. We recognize the House has its own priorities and must determine on a broader perspective what should go through and what should not go through.

**Mr. Breithaupt:** Does the minister have any further knowledge to enlighten us as to the time that bill may proceed?

**Hon. Mr. Elgie:** I am afraid I cannot. We have indicated to the House leader that it is a priority matter, but you have readily pointed out the problem. Both opposition parties—I am not

criticizing, because I understand—have indicated a desire to have this bill go before committee. The member for Riverdale (Mr. Renwick) spoke quite vehemently about it, as you will recall. Certainly, if that remains the wish, I think it is a problem of finding the time for it. I have left that to the House leader and have indicated our intentions.

**Mr. Knowles:** I would just add one more comment. In terms of the legislative review for this body, as Mr. Breithaupt has indicated, my term will be ending at the end of this year. The commission on which I have served formulated that bill, and it would be extremely difficult for a successor to understand the pros and cons that went into the compromises that represent the legislation in that bill, should the review take place subsequent to the end of this year.

**Mr. Breithaupt:** I hope the minister or the chairman of the committee will ensure that the House leaders receive a copy of the comments made today on this particular matter. You will realize that there are more pages of notes to the bill than there are for the text of many other bills. There are particular and detailed things which I believe the Legislature would do well to have the opportunity of some discussion in committee, particularly where the changes that are being made are substantial and especially when we had the benefit of full hearings from interested persons who attended the last time we had major changes to securities legislation. I think we would be doing a better job if some time was available in committee to have some of the give-and-take explained to us and just what we are being called upon to pass.

It is a particularly detailed and involved area in which I am sure none of us presumes to be expert, yet we will try to do the best we can with the legislation before us. There may be a requirement to seek additional time for the committees to sit, or to in some way go ahead with concurrent meetings. I hope you will bring this to the attention of the House leaders, because it does concern me if this legislation does not proceed in a reasonable and thorough way. I would not like to see it rushed, nor would I expect to take excessive time, but I think we have to do the right thing here.

**Hon. Mr. Elgie:** Do you think the process would be hastened if the chairman was to have meetings with representatives of each party to go over the nature of the amendments? Then the committee might be better prepared to deal with the bill expeditiously.



**Mr. Breithaupt:** I think that would just mean the chairman has to go through the same thing three times. It would seem more practical to give the explanation once, before those who are attending the committee and who are likely to be either more interested or to have the responsibility within their caucuses for the legislation.

**Mr. J. A. Taylor:** So your answer is no?

**Mr. Breithaupt:** Yes. The only other point that I wanted to raise is with respect to the Argosy situation. The Argosy Financial Group of Canada has been mentioned in various headlines over the last several months. I asked a question on November 18 concerning the two-and-a-half-year investigation by the Ontario Provincial Police and the Ontario Securities Commission.

Mr. Chairman, you will recall that some 1,600 investors lost their savings. I had asked questions with respect to the regulatory procedures and the duties not only of the Ontario Securities Commission but also of the registrar of mortgage brokers and of the financial institutions division generally, with respect to the collapse of that operation in March 1980. In a supplementary question I raised the matter of provincial licensing and review, and the minister responded that these areas were, as I recall, being considered and that he too was concerned as to the financial losses that had occurred.

Another aspect that came up at the time was the circumstance of John David Carnie, who had been convicted for conversion of funds in 1971. Indeed, in 1973, Argosy had a condition attached to its mortgage broker's licence requiring that Mr. Carnie divest himself of shares in that company. To my understanding, that was a condition of the licence which was not renewed. We then had the approval of the Argosy prospectus, which apparently contained a gross misstatement of material fact. The end result was that \$3 million of unsecured debentures were sold to an unsuspecting public at a time when, as I understand it, the company was effectively insolvent.

So there are a number of questions with respect to the supervision of procedures by the Ontario Securities Commission and by the ministry in this area. I recognize, of course, that persons attempting to set up these scams are often able to avoid the law no matter how carefully it is drawn. What I would like to have a brief discussion on, though, is whether there have been any changes in practices by the Ontario Securities Commission or by the minis-

try generally, as a result of that experience we have now had before us for these last two years.

**Mr. Knowles:** There have been no changes in the procedures before the Ontario Securities Commission as a result of the Argosy experience. I believe the charges that were pressed against the named individuals in the last few weeks include a charge for bringing forward a false prospectus. There is no procedure we have been able to devise that eliminates the possibility of someone bringing forward a false document, or that provides the investigative power that enables you to divine that a particular document is false or not false if people are prepared to sign certificates or affidavits that the document is a true, correct document.

So the specific answer to your question, Mr. Breithaupt, is that there have been no changes in procedures. We are trying to move, however, on a broader perspective into the computer age in terms of having larger profiles of checks on names and individuals involved and to try to avoid people falling through the net. As you will appreciate, the computer age that is upon us is a costly one in terms of constraints that governments find themselves in at the present time. That movement is proceeding at a rather slow pace, I think necessarily in view of the economics of the situation.

**11:40 a.m.**

It is very hard to talk about the subject at the present moment because the individuals are before the courts on criminal charges. One tries to be very careful not to upset the balance or to offend their rights as to what is going on. As to the comments you made with reference to Mr. Carnie, I have reviewed very carefully the commission decision that granted Mr. Carnie his right to get back into society, if you will. I believe, in the social mores under which we live today, that is a correct decision. We live in a society that countenances such re-entry into the normal social process after a period of retribution and a period subsequent to that when good conduct has been evidenced. One is conscious of other agencies of this government, such as the Ontario Human Rights Commission, in determining what bars may be placed on people for how long.

I believe in the present climate, Mr. Breithaupt, if another Mr. Carnie were to appear before the commission sitting formally on an appeal from denial of registration, that if facts were unveiled before that panel of the commission that the person had served his sentence as meted out by

the courts and had lived an exemplary life subsequent to that, up to the time of the hearing, he would probably be granted registration again.

**Mr. Breithaupt:** I have no further questions. Thank you, Mr. Chairman.

**Mr. Chairman:** Mr. Haggerty, you wanted to speak on this vote, did you not?

**Mr. Haggerty:** No, I was just asking what vote you are on.

**Mr. Swart:** I would like to ask the minister to report on the situation with regard to the commodity futures exchange. Are there any changes in plans for this? Is it proceeding apace?

**Hon. Mr. Elgie:** I believe it is but I would ask the chairman to outline that for me. He is in day-to-day contact with that.

**Mr. Knowles:** Yes, sir, the Toronto commodity futures exchange is operating under a commission order that allows it to operate a futures exchange at the present time. As you are aware, sir, there is a bill before your House asking that the Toronto futures exchange be brought into existence by way of formal statute. I am not aware at present of the status of that bill before your House.

The registration of the Toronto Stock Exchange allowing it to deal in commodities and futures expires at the end of this year, on December 31. Again, as I said in response to Mr. Breithaupt, that was put into the original authorizing orders that have been extended, I believe, two or three times now, on the premise that the commission should not authorize such an exchange to exist if the House was not prepared to have such an exchange exist.

What the commission is going to do if the bill does not become law I cannot really tell. It is not on our agenda at the present time. We are hoping we will see some results from the House. If that does not happen, I imagine the Toronto Stock Exchange will be applying to us for an extension of its registration to allow it to continue to deal in them. I cannot forecast, as often I am able to forecast, what my commission will do with it, having extended it two or three times in the face of the bill not coming through the House as authorizing legislation. One thing we will do is ask the government specifically whether the nonpassage of the bill into law represents in whole or in part the concern by the House that there should not be such an exchange in Ontario.

**Mr. Swart:** The reason I asked the question of the minister really was to get his views on this. I wondered if there was any change in the plan

with regard to creating this commodities exchange. I may be wrong in this; I am just going from memory. I did not bring the material with me. Am I right in saying it is not one of the bills the government has given priority for finalizing this fall?

**Hon. Mr. Elgie:** The bill was put before the House because the government supports the existence of that exchange, and I do not think it is any mystery to you that very little legislation is proceeding in the House. There are a number of priority items. It is a priority item, but there are other matters that are equally or, in some cases, more of a priority at the moment.

**Mr. Swart:** You are saying to me that the proposal has not changed. It is still your intention to get this in place as quickly as you can.

**Hon. Mr. Elgie:** It is our intention to have the bill processed.

**Mr. J. A. Taylor:** Surely the bill manifests government policy and that policy is in accord with what the commission has been doing which, I suppose, should or could encourage it in renewing that order again to enlarge the time of its operation.

**Mr. Breithaupt:** I believe, Mr. Chairman, we should also make it clear to Mr. Knowles and to the members of his commission that there is no desire to delay the bill when it is brought before the House. It is certainly the intention of the Liberal opposition to support the bill in principle. While it may be worthy of several days of discussion at committee stage, certainly, the wish would be that we proceed to have this financial opportunity well established and in place within the province.

I would have the temerity to suggest perhaps the commission will want to put this on its agenda, because the extension of those necessary orders for several months may be required in the light of the views expressed here today.

**Mr. J. A. Taylor:** I assume that the tardiness is not indicative of support or opposition to the bill. It is just that the bill has fallen prey to other more pressing activities.

**Hon. Mr. Elgie:** That is correct.

**Mr. Chairman:** Are there any further questions of Mr. Knowles or on vote 1502, item 1? Are we in agreement that item 1 be carried? Agreed.

**Mr. J. A. Taylor:** Mr. Chairman, I hope it is in order for me to umbrella under the remarks of my colleague and wish Mr. Knowles well in his

future endeavours and thank him for his past services.

**Mr. Chairman:** I am sure we all echo that, Mr. Knowles. On item 2, pension plans, any questions, Mr. Bradley?

**Mr. Bradley:** On pension plans?

**Mr. Chairman:** Are you ready to retire?

**Mr. Bradley:** No, I am sorry. I think Mr. Breithaupt has some questions.

**Mr. Breithaupt:** I have a number of questions I think are worthy of some discussion. It would appear, certainly in recent articles and comments in the media, that a variety of pension programs and the expectations of the people who will receive benefits are certainly undergoing some strain. This is a result not only of increasingly difficult economic times for many of those in the private sector, but also of the increasing percentage of the population that is going to be drawing on pension programs as compared to those persons who are going to be available to contribute.

**11:50 a.m.**

I would like to hear from the minister if he envisages how some of these concerns are going to be resolved. Do we have any studies under way at the present time with respect to pension programs? Have we had recent discussions with the federal authorities concerning their review of the whole pension scene in the country? Just where are we with respect to the operations and review of our own situation following the Haley report, which of course has set a framework for the development of pension programs for the next years?

**Hon. Mr. Elgie:** I think Mr. Bentley can tell you the processes and steps that are going on within the commission. In a general way, as I am sure you know, the issue of pensions policies, really, is broken into two areas of the government. First, the administration of the pension legislation is under the Minister of Consumer and Commercial Relations, but traditionally policy matters related to pensions have been in the hands of the Treasurer. However, I think Mr. Bentley can confirm that the commission has nevertheless been addressing the issues, evaluating them, and I believe discussions are going on with the Treasurer. Perhaps Mr. Bentley can elaborate on the stage things are at and on the discussions.

**Mr. Bentley:** The situation is simply that after the report of the select committee on pensions, which was tabled as you know last March, the

pension commission started to work on the recommendations of the select committee, keeping in mind the recommendations of the royal commission and keeping in mind what has come out of the federal government, which has not been, if you will pardon the expression, a heck of a lot in the way of policy determination as yet. Nevertheless, we have tried to work with the people and—

Interjection.

**Mr. Bentley:** I'm sorry. We have had this argument, Dr. Elgie, for a while, and I could not resist getting that one in, because after all, I am retiring, as you know, at the end of this year.

With respect to private pension plans, we are examining all of the recommendations that have been made and are trying to put forward—on the basis of the experience of the pension commission in the administrative end, from our regulatory function—the changes we would be prepared to recommend to government as the Pension Commission of Ontario. Because as you know, a great number of recommendations were made that the pension commission should examine and look into these areas.

We are trying to look at both the social and economic impact and, as you mentioned, the fact that the economic circumstances are rather difficult at this time. We naturally have to be concerned about the financial impact that may take place upon any change in pension legislation not only in Ontario but in Canada, and the impact on the sponsors of pension plans with respect to changes that would appear to be needed for private pension plans: that is, approved vesting, approved survivor benefits, certainly the augmentation of benefits for retireds and deferreds, which were all recommended.

We are trying to take a look at the cost and social impact in all of these and to work out methods and options that can be considered in future legislation and that we think will be acceptable, at least in our view, to the beneficiaries under pension plans and to the sponsors of pension plans, who, after all, have to pay the bucks for them. We have to be concerned with all those, and that is the way we are working at present.

It is not an easy process. As you know, this is a rather complicated area. With approximately 8,000 pension plans in Ontario covering approximately 1,700,000 people and the variety of pension plans that exist, you have to be very careful to make sure that the impact is fair and reasonable for both the sponsor and the beneficiary end of the plan.



**Mr. Breithaupt:** Yes, I recognize the complexity of the matter, Mr. Chairman. During the last two years of the select committee on company law, as we reviewed the life insurance industry in the province and those companies also providing accident and sickness insurance, it became quite clear that difficult decisions are going to have to be made with respect to the availability and the funding for pensions and for the kinds of changes and survivor benefits and other matters that Mr. Bentley has referred to.

At that time, of course, we did not wish to duplicate any of the work of the Haley commission or, indeed, of the select committee that was going into pension matters, but there were concerns that, certainly for the 1980s, another area that is particularly worthy of consideration is this whole pension theme.

The smaller numbers of persons paying into programs from which larger numbers of persons hope to draw funds is, I think, going to be one of the major aspects of decision making that any government is going to have to address. And it is not a matter of the political stripe of the person who may be the minister or of those who may form the membership of a policy field; it is one that is going to have to be most seriously addressed in this decade.

So I thank Mr. Bentley very much for his comments and again regret that the effluxion of time takes him from us at the end of the year, as well as Mr. Knowles who is with the securities commission.

**Mr. Bentley:** If I may say something, Mr. Minister, Mr. Chairman—

**Hon. Mr. Elgie:** If I said no, it would not stop you; it never has.

**Mr. Bentley:** That's not quite correct. I have very mixed emotions about leaving. This has been a field that I have tried to make work in Ontario and in Canada, and I hate not to be a part of it; but when you are approaching 68, you have got to go.

**Mr. Breithaupt:** Is it fair to ask a question about the members' pensions at this point? I do not think Mr. Bentley really has any responsibility in that area.

**Mr. Chairman:** No, I think that is out of his jurisdiction.

**Mr. Haggerty:** I threw an interjection in there, Mr. Chairman, to Mr. Bentley that I was fortunate to be a member of that committee in the final stages of the report; I appreciated Mr. Bentley's assistance to the committee. His knowl-

edge in the area of pensions was greatly appreciated by all members.

One of the difficulties we had, and I think it should go on the record regardless of what political affiliation a member has, was that we did try to get a meeting with the member responsible in Ottawa; I guess it would be Monique Bégin. We got a rather cold reception and were turned right down. Much of our report perhaps would have hinged on what federal legislation may be coming forward. It was unfortunate that we could not include that in our final report, because it was rather important to us and to the report that we fully understood the position and policy the federal government was bringing forward on pensions.

I am concerned that Mr. Bentley will be retiring very shortly. I thought all indications from that committee's report were that provincial legislation would be coming forward before Mr. Bentley retired. I think this is one of his goals: He wanted to see some major changes made for the benefit of those who contribute. One area where concern was expressed by persons making representations to the committee was on the portable pensions, and the difficulties that persons had in having pensions made portable, particularly when related to the construction industry. They also mentioned that they were perhaps being shortchanged in a number of areas, including survivors' benefits, if I recall. I hope I am correct on that.

## 12 noon

I thought perhaps we would have some leadership from this ministry and perhaps from the Treasurer, with amendments to the Pension Benefits Act coming forward. There are many areas requiring improvement. I thought it was a rather good report. It put forward our position and the areas the government should be looking at for these major changes.

I do not know what more I can say, Mr. Bentley. I was hoping they would have that legislation or some of it, available for discussion by committee or that we could have your viewpoint expressed before a committee of the Legislature, on the new legislation we hope will come some day.

I guess the old expression is, "in the fullness of time." I hope it is not that. I think it was the former Premier of the province, the Honourable John Robarts, who used to come out with that comment. Although he would say that, we could rest assured that some changes were being made and that it would not be too long before they were before the Legislature.

I suggest to my colleagues here, in particular the minister, this is one area where you should keep that promise and bring that legislation forward. It is rather important. These changes are now required, as we are all moving into that grey area looking for more secure pensions than ever before, perhaps with a fairer return in some areas.

**Mr. J. A. Taylor:** I have a supplementary, Mr. Chairman, before Mr. Bentley responds to the query of whether or not there is anything moving in the bushes.

I surmise that Ontario has taken the lead in terms of pension reform with the present posture of the federal government, namely to withdraw from any obvious activity in that direction. I would ask Mr. Bentley to comment on that as well. I will not necessarily ask him to analyse the reasons for that but there may be matters of streamlining and pension reform that can take place. There may be some activity in that area that do not necessarily involve very much money.

I would ask Mr. Bentley to comment on that in conjunction with Mr. Haggerty's question, if I can term it that.

**Mr. Chairman:** That is a good term. I do not think he asked a question particularly. Mr. Bentley, would you like to respond to Mr. Haggerty's query?

**Mr. Bentley:** Is it all right if I try to combine an answer to both of them? With respect to the involvement of the federal government, following the Canadian Pension Conference in the latter part of February 1980, the federal government was to put together a package—either a green paper, options paper, or whatever you want to call it—which was expected momentarily. I think the moment has now lasted two years.

Regarding the option paper or the green paper, with respect to the recommendation made before, coming from the federal government, I hear rumours that it could be brought forward in December. But since I am leaving, I still have a bottle of Scotch bet that it will not be out before spring and I am not going to lose it.

With respect to the area of portability, Mr. Haggerty, your principal concern was the representations made to the select committee by the construction industry, in other words, the multi-employer pension plans. You will remember that we did have the Canadian co-ordinating committee appear before the select committee. Since that date I have worked very carefully with the co-ordinating committee and its advisers

to develop the arrangements needed for multi-employer plans to make them work more efficiently and more satisfactorily for the beneficiaries, the members of the pension plans.

They have given tremendous co-ordination, tremendous support and have presented me with drafts of what they would suggest as recommendations for future legislation. This is what we charged them with and they have responded very well. Unfortunately, at the meeting I had with them just 10 days ago, we found that some of the areas have to go back for reconsideration by their advisers because there were some arguments about some of the areas and I wanted clarification on their philosophy.

When this report is completed by the Canadian co-ordinating committee, it will be presented for consideration to the Pension Commission of Ontario and, at the same time, to my minister. I think the progress that has been made in that one area alone has been tremendous, not only for Ontario. The understanding and the co-operation we have received from representatives of the unions and the representatives of the boards of trustees from management has been tremendous. I have been extremely grateful for the help they have given me in trying to put this part of the package together.

**Mr. Haggerty:** I was leading up to the question of when we can expect the new legislation. That is the question my colleague had too. When can we expect—

**Mr. Chairman:** After Bill 179.

**Mr. Haggerty:** After Bill 179?

**Mr. Chairman:** Everything is after that. That is how we set time, apparently.

**Mr. Haggerty:** Are we now in the area of draft legislation?

**Mr. Bentley:** The commission is in this area. A large number of the recommendations made by the select committee and by the royal commission have been put into a form of recommendation, not with respect to the legal changes to the act, but to those things that we will be prepared to recommend to our minister when we have completed the package.

**Mr. Breithaupt:** These are the principles, in other words?

**Mr. Bentley:** Even to some words, as to how we think it should operate. Where we think there should be options considered, these will be put into it as well. That is the process we are going through now, and we are well into the process. As you would be aware, Mr. Haggerty,

the most difficult area is the development of the so-called augmentation of benefits for retired and deferred vested benefits, as was recommended by the select committee, and the cost impact.

The economic and social impact has to be completely understood. It has to be something that can be phased in and developed over a period of time which will make it fully effective, say, five years after the introduction of the legislation or however long is determined, because the cost impact is pretty hefty in that area.

**Mr. Haggerty:** Are we looking at about a year down the road before any draft legislation is in?

**Mr. Bentley:** I cannot answer that one. All I know is I hope that some of the areas are given to the minister before I leave; but not all of it will be completed.

12:10 p.m.

**Mr. Swart:** I have two questions; one is a follow-up on the questions of Mr. Breithaupt and Mr. Haggerty relative to the timing of the new legislation. I want to put it to the minister; I am sure you have some idea about when you hope or expect to table legislation in the House. Before you answer that, it is obvious that it is not imminent. It is certainly not going to be until the next session.

You have a bill now before the House with regard to certain changes which you think are urgent, and I agree. I support the changes you have proposed, particularly with regard to the right of spouses to their share of pension.

If this is going to take some time, I wonder if you would consider also bringing in an amendment, perhaps in that bill, relative to disclosure and reporting of the amount of pensions employees are entitled to. You probably know this has been a matter of contention with many employees. I understand the Quebec legislation does provide that it must make a statement to the employees every year or every two years.

**Mr. Breithaupt:** As to what has been earned.

**Mr. Swart:** On what has been earned; that is right. I am not sure whether it was brought to your attention personally, Mr. Bentley. On this matter, I have had some occasions where there is real concern on the part of the employees.

As an aside, I say to the minister and Mr. Bentley that, in all the inquiries I have made to his department, I find I have had a high degree of frankness and quick responses to the questions. I commend Mr. Bentley for that.

But that does not say the legislation is adequate at the present time. That is my first

question: Do you think this might be important enough to bring in a further amendment in this matter if this legislation is going to be delayed for another year?

**Hon. Mr. Elgie:** As I have already said, and as Mr. Bentley has reported, the commission is reviewing the economic and social impact of the recommendations. It is preparing its own recommendations with respect to principles and wording, but I can only emphasize once again that, as Mr. Swart knows, the traditional position of the Pension Commission of Ontario has been that it was primarily there to administer the Pension Benefits Act, and similarly that was the minister's role, and that policy matters related to pensions were in the domain of the Treasurer.

Clearly, though, Mr. Bentley has indicated he is preparing some recommendations to me which then will have to be reviewed by the Treasurer (Mr. F. S. Miller). I cannot give you any clear commitment as to when any legislation can come in.

Before I comment on the other, perhaps Mr. Bentley would comment on the issue Mr. Swart has raised with respect to disclosure.

**Mr. Bentley:** Mr. Swart, in February 1981, amendments to the regulations under the Pension Benefits Act became law in Ontario. They require that every employee, every member of a pension plan, starting in 1982, shall be given information with respect to his own entitlement; that is, the number of dollars he has put into the pension plan, what has been contributed on his behalf, what he can expect out of the plan and so on. There are quite a number of items, including who his beneficiary is, at least on the records of the pension plan.

As well as that, the employee, upon written request to the company, has the right to certain other information the company must supply to the pension commission. Instead of having to come to us, he can apply to the company and obtain this information. It is a requirement of the law that he is entitled to get a copy of the plan provisions that are applicable to him.

He is entitled to certain other information, such as the annual information that is provided to the pension commission. He is entitled to receive the last two cost certificates which are prepared by the actuary to the pension plan. He is also entitled to receive a copy of the actuarial balance sheet which shows the financial condition as set out in the actuarial report. He is entitled to receive that information.

The requirements were that, starting in 1982,



this information shall be made available to the employee with respect to his own condition in the plan and any other condition that is set out in the regulations. He is entitled to request this and it must be given to him.

**Mr. Swart:** I must confess that I have not read the Gazette sufficiently to be aware of that. Does it provide for how frequently? Is it on a routine basis, or does it just provide "upon request," so that he could request it this year, six months from now and a year from now?

**Mr. Bentley:** With respect to the information that relates to him personally, that must be provided at least every third year. With respect to the information that he can request from the company—and this has to do with the costing, the actuarial report and this type of thing—he can request that yearly if he wants. We had to put a condition, because some people might request it month after month, but we have said that he has the right to request this at least every year.

**Mr. Swart:** I have another question to Mr. Bentley. I noticed in the briefing book we have been given that the number of complaints and inquiries has increased unbelievably in this past year from 2,530 to 8,694. Can you explain why?

**Mr. Bentley:** First, I think there is an awareness on the part of members now; a lot of the questions have to do with, "What kind of information am I entitled to receive?" We have produced a written statement, in English and in French, and it is made available to employees. It is not in legislative language. An awful lot of our inquiries have simply been: "What am I entitled to receive? I have received something from the company. Is this what the law says?"

Second, in recent times pensions have become a much more visible thing than they ever were in the past.

Third, and probably the biggest reason, is that previously we did not log the telephone calls in the way we are now logging them. When we saw the rise in inquiries coming in, we started to keep a much better log of all calls coming in.

I think when you combine those three—and that is the only answer I can give you—it is a case of better recording, pensions being more visible and the fact that employees have been told and know they are entitled to certain information and just want to make sure they are getting it.

**Mr. Swart:** I would have thought the state of the economy and the tremendous numbers of

layoffs might have had a very real bearing on that. Is that not the case?

**Mr. Bentley:** It has had an effect, but I cannot say it is of major significance. We can only record one call, and it may come from the union local president or from the recording secretary or whatever, with respect to the whole of the union. So it is one call, but it may involve from 50 to 200 people. There is no way I could know that.

I think the major thing is that we are a little more cautious in our recording of the queries received than we were in the past.

**Mr. Breithaupt:** Mr. Chairman, so as not to give the wrong impression, it might be worth while to record the matters of inquiries and complaints separately.

When one has four times as many items as there were in the previous year, it could lead a casual observer to think they were all complaints and that there were substantial problems in many situations. That may not be the case and, indeed, I hope it is not.

As Mr. Swart has pointed out, the volume is based on these other themes and to some extent the situation with respect to the economy. I would certainly hope that 8,000 of the 8,694 matters were not complaints, rather than inquiries.

**Mr. Bentley:** There are approximately 1,750,000 members located in Ontario. The percentage of inquiries is not very high.

**Mr. Breithaupt:** Indeed not; and much of it is inquiry rather than complaint, I would hope.

**Mr. Bentley:** That is correct.

12:20 p.m.

**Mr. J. A. Taylor:** Mr. Chairman, through you to Mr. Bentley if I may, and to the minister, I gather when asked to comment on the implementation of certain of the recommendations of the select committee report, you said the particular recommendation dealing with disclosure and information actually has been implemented through the regulations.

**Mr. Bentley:** That is right.

**Mr. J. A. Taylor:** My question then is, using that as a precedent, the spirit of the select committee's report is not dead and is, in fact, being acted upon in some fashion. Are there other areas of that report, which was adopted by the assembly, that can similarly be acted upon through the regulation process?

**Mr. Bentley:** Not too many of them by regulation, although we do have Bill 178, which does take care of some of the recommenda-

tions. One of the recommendations of the select committee deals with entitlements, not just under the Family Law Reform Act but under the Divorce Act as well, Mr. Taylor. You will recall that was one of the recommendations of the select committee, and the minister put it into Bill 178, which did receive first reading, as I recall, in late June or early July.

**Mr. J. A. Taylor:** Are there any other recommendations you are aware of that are being implemented?

**Mr. Bentley:** Not as yet.

**Mr. Breithaupt:** May I ask, Mr. Chairman, since that matter of Bill 178 has been raised, whether there are any plans that would be compromised or procedures that would be in any way upset by the bill not proceeding before the usual adjournment in some weeks' time? Is there anything there that is of particular concern that would see the need for that legislation to go on our list of priorities?

**Hon. Mr. Elgie:** It is already very high on my list of priorities, first, because there are a number of former spouses who have this issue before them already, as I am sure you are aware. Second, Mr. Bentley feels very strongly that the issues related to the guarantee fund, clarification of some matters related to it in order to make it something that is a readily workable vehicle, are important. I think this would be a good opportunity to indicate why to the committee so that, as we bring the bill forward for second reading, we will have some understanding of what it is all about.

**Mr. Bentley:** The minister covered the two major areas we were concerned with, plus the third one that needs clarification and that is important to us, the lien or charge on the assets of the employer in a bankruptcy situation. The law was very unclear as to that right, where an employer went into bankruptcy or receivership and where contributions to the pension plan were not made by the employer, or where he deducted contributions from the employee's pay cheque and did not remit those contributions in the interim to the trustee of the pension plan or the underwriter of the pension plan. We do need to have some method of getting a claim against the assets of the bankrupt in order to try to protect those deductions that were made or contributions required to be made, or, where they were not made to the trustee, at least to have some claim on them.

**Mr. Breithaupt:** Mr. Chairman, here is a bill that is going to be most useful and it is also a bill

that, to play my old tune again, is worthy of several days' discussion in committee to get the details and the presentation from those like Mr. Bentley who are able to assist us and guide us through the particular sections. I hope when this bill comes before us, which will likely be in the new year, at this stage at least, that Mr. Bentley will perhaps be available to help us with the particular sections as the time comes. I was not a member of that committee on pensions, and I know that my colleagues here today, the member for Erie (Mr. Haggerty) and the member for Prince Edward-Lennox (Mr. J. A. Taylor), were. I think we would all benefit very much from the guidance, direction and experience that Mr. Bentley has if we could encourage him to be with us at that time.

**Hon. Mr. Elgie:** It is my hope that Mr. Bentley will remain with us in some capacity for further matters that are under discussion, but I am sure he would be willing to come back in any event.

**Mr. Bentley:** Only on one condition, that it does not interfere with the right of my wife to select a holiday, which you were—

**Hon. Mr. Elgie:** Which I interfered with before.

**Mr. Bentley:** That's right.

**Mr. Breithaupt:** That's more than fair.

**Mr. Chairman:** Any other questions of Mr. Bentley? Mr. Taylor?

**Mr. J. A. Taylor:** No, I do not. But just in response to an observation, it is unfortunate that the time of the House really is not used to its maximum in dealing with issues that I think are of legitimate and real concern not only to us, or some of us, as legislators but I think to the public. If that sounds like a lecture to some of my colleagues in the opposition, well, it is.

**Hon. Mr. Elgie:** Mr. Chairman, there are several items still: financial institutions down to security bond forfeitures. Could we have some indication from the committee as to whether or not they wish to look at all of those areas? And shall we have all of the staff here for each of them, or are there some areas in which you do not wish to deal with the staff?

**Mr. Chairman:** Excuse me, Dr. Elgie. Before your departure Mr. Bentley, the committee all wish you well in your retirement and we look forward to your coming back for Bill 178.

**Mr. Bentley:** I will be pleased to come back.

**Mr. Breithaupt:** Mr. Chairman, in response to that, I presume the clerk is keeping careful time

and that we have approximately two and a half hours this afternoon.

**Mr. Chairman:** No. Two hours and 40 minutes, roughly, from this minute.

**Mr. Breithaupt:** Might I suggest, then, that we spend an hour and a half this afternoon dealing with the remainder of vote 1502; therefore, at 3:30 we would go to vote 1503, and at four we would go to vote 1504. That will allow people to make their plans. I realize it is a bit arbitrary, because we could have questions that could deal with any one of them, but in order to try to

share the time fairly, perhaps that is one way of going ahead.

**Hon. Mr. Elgie:** Excuse me. You want Mr. Bentley back for an hour and half this afternoon?

**Mr. Breithaupt:** No. The remainder of the items in vote 1502.

**Mr. Chairman:** I think we should try to clear off vote 1502, item 2 now. Is Mr. Breithaupt's suggestion agreeable? Agreed.

Shall item 2 carry?

Carried.

The committee recessed at 12:29 p.m.

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### From the Ministry of Consumer and Commercial Relations:

Knowles, H. J., Chairman, Ontario Securities Commission













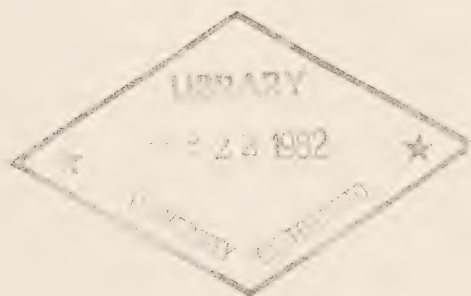
No. G-6

# Legislature of Ontario Debates

## Official Report (Hansard)

### Standing Committee on General Government

Estimates, Ministry of Consumer and Commercial Relations



### Second Session, Thirty-Second Parliament

Wednesday, November 24, 1982

Afternoon Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, November 24, 1982

The committee met at 2:03 p.m. in committee room 1.

### ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

**Mr. Chairman:** I see a quorum and call the meeting to order.

As we agreed before lunch, we will continue with vote 1502, and move on to item 3, financial institutions.

On vote 1502, commercial standards program:

**Hon. Mr. Elgie:** Mr. Thompson, would you please come forward.

**Mr. Swart:** I want to pursue the matter of the Ombudsman's submission to the minister a bit further by some questions to the minister.

**Mr. Chairman:** Mr. Swart, I did not think you would be wanting to pursue it this afternoon.

**Mr. Swart:** First of all, I presume, Mr. Minister, that you have seen and read the submission, whether it is a report or whatever we want to call it.

**Hon. Mr. Elgie:** Yes, I have.

**Mr. Swart:** How large is it? How many pages would you estimate?

**Hon. Mr. Elgie:** I cannot recall the number. It is something like four or five pages.

**Mr. Swart:** Does it specifically make recommendations and give reasons behind them?

**Hon. Mr. Elgie:** Let us start from the beginning again, Mr. Swart. You should very clearly understand that we are not involved in any discussion as to whether or not the government will accept a report. We are now intervening, as a result of information that has been obtained by someone, in what is purely an investigation and discussion stage under section 19 of the Ombudsman Act, under which the Ombudsman, as the result of information which he gathers, writes his subsection 19(3) letter and gives the government an opportunity to respond to any of the assumptions he has made as a result of his investigation, to respond to his preliminary views with respect to recommendations.

That is the stage we are at, and I am not prepared to get into discussions at this point as

to what his recommendations are. We can spend a long time at it, but that is it.

**Mr. Swart:** I want to pursue that with you again, but before we do that, can I ask you if this is not just a letter setting out certain questions to you but a letter in which he states his preliminary findings and preliminary recommendations?

**Hon. Mr. Elgie:** It is very specific. Subsection 19(3) says, "during the course of an investigation, it appears to the Ombudsman that there may be"—not that there are—"sufficient grounds for his making any report or recommendation." That is the stage we are at now.

**Mr. Swart:** Yes, but you did not really answer my question.

**Hon. Mr. Elgie:** Oh, I did.

**Mr. Swart:** It is not just a letter that asks you questions. It is one in which he states his findings to date and makes certain recommendations. Whether those are final or not is not the issue. My question to you is: he makes certain findings and makes certain recommendations, is that right?

**Hon. Mr. Elgie:** He indicates grounds upon which he is prompted to write the subsection 19(3) letter, and that is still my—

**Mr. Swart:** You are still evading my—

**Hon. Mr. Elgie:** No, I am not evading you. It is your misunderstanding of section 19, that is the problem.

**Mr. Swart:** I understand what section 19 says, but I am asking you about the statement you have received. Does he lay out certain of his findings—

**Hon. Mr. Elgie:** By the way, it is 11 pages long, it is not four or five.

**Mr. Swart:** It is 11? It is quite comprehensive.

**Mr. Chairman:** Have you ever seen a short letter from the Ombudsman?

**Mr. Swart:** Yes, I have had one.

**Hon. Mr. Elgie:** Under subsection 19(3)?

**Mr. Swart:** Yes, I have already had a letter under subsection 19(3) on another matter, so I am a bit familiar with it. Mine is very short, and that is a very substantial difference between the



one I have and the one that you apparently have.

**Hon. Mr. Elgie:** It is in keeping with the issue that is before him.

**Mr. Swart:** Am I right, and is this committee right, in assuming that it is therefore a fairly comprehensive letter with a number of findings and recommendations?

**Mr. Chairman:** Mr. Swart, I think the minister has already answered that, with as much as he is able to divulge at this time.

**Mr. Swart:** As much as he may be prepared to.

**Mr. Chairman:** As much as he is able to, under his terms as a minister of the crown.

**Mr. Swart:** I am going to have to accept what you say, but you have not answered my question. It is within your prerogative, of course, not to answer that.

I would like to know whether in fact he does set out his findings in a rather comprehensive manner, sets out his recommendations and asks you to respond to them.

**Hon. Mr. Elgie:** It sets out his views, in compliance with section 19 of the act. Since that is at the investigation and discussion stage, those discussions with the Ombudsman, as well as our discussions with the Attorney General (Mr. McMurtry), as I have said, are taking place.

2:10 p.m.

**Mr. Swart:** That is the same thing you said before. You have stated that you are not going to say what it recommends.

**Hon. Mr. Elgie:** Mr. Swart, you know what section 19 is all about, and you know that you are trying to create an illusion out there that I am not interested in achieving any settlement in respect of this issue. You also know that, in doing so, you are asking me to not comply with the act.

I intend to comply with the act, and I intend to follow the act. I do not intend to get into discussions with you at this time, since those discussions I am having at this time are contemplated under section 19 and will be carried out under section 19.

**Mr. Swart:** I am not trying to imply that you are not prepared to make a recommendation at some point.

**Hon. Mr. Elgie:** That is right.

**Mr. Swart:** But you have stated, apparently, to the media, that there are recommendations

and have given some indication to the media of the recommendations that have been made.

I have the report of two newspapers in front of me. The Toronto Star this morning states:

"The Ontario Ombudsman says the provincial government should compensate 320 investors who lost millions of dollars when Re-Mor Investment Management Corp. and Astra Trust Co., both of Niagara Falls, collapsed in 1980.

"Consumer Minister Robert Elgie said yesterday that Ombudsman Donald Morand made the recommendation in a report submitted to Elgie's ministry in July."

**Hon. Mr. Elgie:** It is interesting speculation. I am not going to comment on it, other than to say that clearly one inaccuracy is the number of people. As you know, that is not the number who went before the Ombudsman. There is a number of people who went before the courts; but that is really not relevant to the issue.

What I am saying to you right now is that I am not going to have any discussion or comment with respect to the matters that are now before me, as minister, in compliance with section 19.

**Mr. Swart:** Are you telling this committee that, although you made these statements to the press, or did not make them to the press—

**Hon. Mr. Elgie:** I am not denying it.

**Mr. Swart:** Whether you did or not make that statement to the press—

**Hon. Mr. Elgie:** I did not make that statement to the press about the numbers, no.

**Mr. Swart:** No, I am not dealing with the numbers, they are irrelevant; I am dealing with the issue of compensation of the investors. Did you—

**Hon. Mr. Elgie:** I indicated that there were recommendations that I personally look favourably upon, the details of which I was not prepared to discuss. That still stands here today.

**Mr. Swart:** Did you not imply that those recommendations were compensation to the investors?

**Hon. Mr. Elgie:** I may have.

**Mr. Swart:** And you are not prepared to even make that statement here today to the committee?

**Hon. Mr. Elgie:** I may have; I understand one reporter has a tape to that effect. I am not going to deny that because I am not going to let you give any impression out there to the public that I am not interested in the plight of those Re-Mor investors. I want to be very clear on that. Neither am I prepared to discuss the matter that

is before me now under section 19, which is the investigation and discussion stage.

**Mr. Swart:** Are you telling this committee they are not even entitled to the same information from you that you gave to the—

**Hon. Mr. Elgie:** You just got it.

**Mr. Swart:** So you confirm what you told the press.

**Mr. Chairman:** Mr. Swart, the minister just finished saying that he may have made that statement to the press and he is not confirming that he did nor denying that he did not.

**Mr. Swart:** My understanding is that he is confirming it; that is why I would like to know. Surely, this committee has a right to know whether he did.

**Hon. Mr. Elgie:** Again I said I understood there was a tape of it. If I said "yes" to something, then I said it. Regardless of all that, I am not getting into a discussion of a subsection 19(3) letter to me; and your understanding of the Ombudsman Act should be such, since you were in the Legislature when it was passed, that you understand the function, purpose and process of the act. If you do not, then you had better take it and read it.

**Mr. Swart:** I understand it. I think my understanding may be sufficient to create the impression I have that there is nothing to prevent you from revealing this information. I asked you before—

**Hon. Mr. Elgie:** As a result of any discussions we have, the Ombudsman may change his recommendations, so it would be pointless for me to discuss his recommendations in this preliminary letter which he has sent to me, which we have the right to object to, in part or in whole. To discuss it now would be superfluous and not in keeping with the intention of section 19, nor in keeping with the purpose and intention of the act and its processes.

**Mr. Swart:** Did you tell the media that you hoped to reimburse the victims within a few months, or reimburse the investors within a few months?

**Hon. Mr. Elgie:** To the best of my recollection, I told the media that I expected our deliberations on this would take, at the most, a few months.

**Mr. Swart:** And did you say that you hoped to reimburse—

**Hon. Mr. Elgie:** No, I do not recall saying that.

**Mr. Swart:** It is obvious you are going to stonewall this report.

**Hon. Mr. Elgie:** Mr. Chairman, I object to that insinuation. The member knows full well that I have obligations under this act—he says he understands that, but I do not think he does—and I am living up to those obligations. To call it stonewalling is to me, to put it in a kindly way, a misinterpretation of the act, which is not deserving of him.

**Mr. Chairman:** Mr. Swart, if you want to continue questioning on this whole Re-Mor Investment Management Corp. matter, it will have to be in the context of other than section 19 of the Ombudsman Act. I think it was very clear in my ruling this morning that the discussion was out of order pursuant to section 19. If you wish to continue questioning on statements the minister made to the press that is fine, because that is not in the context of section 19. If you are going to deal with section 19, I will have to hold you to that order.

**Mr. Swart:** Mr. Chairman, could I ask the minister under what section he refuses to divulge any information relative to this statement or report to this committee?

**Mr. Chairman:** That is clear too; section 19.

**Mr. Swart:** Perhaps the minister should answer it because I may want to dispute it.

**Hon. Mr. Elgie:** Again, I think section 19 is very clear. We are in the investigation and discussion stage and, at that stage, matters are conducted in private.

**Mr. Swart:** They are conducted in private; I accept that. It does not say he must keep the information secret. When you conduct an investigation in private, I know that means the press is not there. It does not state that any report as a result of that, even an interim report, shall remain confidential.

**Hon. Mr. Elgie:** It is not an interim report.

**Mr. Swart:** It does not state that report or recommendation, whatever it is, shall remain confidential. Can you point out to me any other section of the act which requires you to keep that information confidential?

**Hon. Mr. Elgie:** I am acting in compliance with the act. I think it would be a disservice to the public to involve myself in speculation about what a final recommendation may be when the Ombudsman has not yet reached that conclusion as a result of his investigation and discussion. I am not prepared to do so. It will be

an interesting discussion about it, but I do not intend to change my position.

**Mr. Swart:** I cannot compel you to change your position, as you well know, but I want to know the basis on which you are refusing to divulge the information. I would ask once again if you can show me any section of the act that would prevent you from divulging this information to the committee.

**Hon. Mr. Elgie:** I have already outlined the rationale for my behaviour. I think it is in keeping with the act and it is in keeping with precedents respecting the act. What you really are asking is for investigation and discussion to be carried out in public. That is not the purpose of this act, nor do I intend to get involved in it.

**Mr. Swart:** I will move on to another area of questioning. I would just point out that I respect the minister's prerogative to refuse to give information to the committee, as much as I totally disagree. There is no section in this act which prohibits him. To me, there is no moral justification at this time for refusing to give that information to this committee. If that is your decision, then that is a decision you have to live with.

**Hon. Mr. Elgie:** I think I am not only acting morally, but I am acting with integrity. As I have indicated, I would continue to do that as I pursue that recommendation.

**Mr. Swart:** With regard to the timing, you did receive this letter, this report, from the Ombudsman in July; is that correct?

**Hon. Mr. Elgie:** Would the deputy minister comment on the date it was received? I do not have that.

**Mr. Crosbie:** I am not sure of the exact date we received it. It was dated in July.

**Mr. Swart:** You would have received it in July.

**Mr. Crosbie:** Presumably.

**Mr. Swart:** As a matter of interest, do you not stamp the reports on the date they come in?

2:20 p.m.

**Hon. Mr. Elgie:** We can go back and look at it and give you the date.

**Mr. Swart:** When was your response made to that? First, has your response to that been made?

**Mr. Crosbie:** Our final response has not been made yet. We have had at least two meetings with the Ombudsman and discussions about it pursuant to subsection 19(4).

**Mr. Swart:** But your final response has not been made to that. Even after four months, it has not been made.

**Mr. Crosbie:** That is correct.

**Mr. Swart:** Are there matters in that report which take a great deal of investigation, which have delayed the response? This whole Re-Mor issue has been discussed at great length for a long time. Why would there be that length of a delay in making a response?

**Mr. Crosbie:** It is a very complex matter and some of the Ombudsman's observations had to be researched. He made reference to what has become a rather voluminous amount of material on the history of the matters. Matters like that had to be checked out.

There are very complicated legal issues associated with the fact that the Ombudsman is only representing some of the investors. Others are represented by the litigation before the courts, so there were serious questions of law that had to be resolved with the Attorney General.

Certain recommendations that were made raised issues that were not easy to resolve. They raised considerations rather than issues, which had to be explored in some detail.

**Mr. Swart:** May I just debate the last question? It would be my understanding though, and would I not be right in assuming, that any decision made as a result of this investigation and recommendation to the minister—an ultimate reimbursement, it is to be hoped, of those who have appealed—would apply to all of the investors who were in a similar situation? Am I right in assuming that?

**Mr. Crosbie:** I am not sure whether I follow your question.

**Mr. Swart:** Let me rephrase it then: would a decision by the minister as to reimbursement of those who asked for the investigation by the minister, apply to all of those investors who were in the same situation as those who asked for the investigation by the Ombudsman?

**Mr. Crosbie:** The Ombudsman's representations or letter under subsection 19(3) is in respect to a group. It is not a single individual.

**Mr. Swart:** It is a group, but it does not include all of the investors?

**Mr. Crosbie:** That is correct. To the extent that it does not, I do not think we can bind the other people not represented by the Ombudsman.



**Mr. Swart:** How many were there in the group who asked for the—

**Mr. Crosbie:** I could not tell you offhand.

**Mr. Swart:** Can the minister tell us offhand?

**Hon. Mr. Elgie:** No, I cannot give you the number offhand.

**Mr. Swart:** There is no guarantee that, even though there is a decision made by the Ombudsman for the group that appealed—

**Hon. Mr. Elgie:** Appealed to the Ombudsman?

**Mr. Swart:** —for the group that appealed to the Ombudsman and they ultimately are reimbursed, that that will apply to the other investors. If there are 28 or 30 of these, whatever the case may be, who have asked for the investigation, that will not necessarily apply to the other hundreds of investors?

**Mr. Crosbie:** We have no power to impose this decision on them. They have brought an action against—

**Mr. Swart:** Let me put it another way: would it be awkward to the other investors who find themselves in a similar situation?

**Hon. Mr. Elgie:** That is one of the matters we are discussing with the Attorney General and the Ombudsman.

**Mr. Swart:** What is your view?

**Hon. Mr. Elgie:** I will have a firm view on it once that discussion is at the table.

**Mr. Swart:** Does that mean you will have a firm view after the final report is in from the Ombudsman?

**Hon. Mr. Elgie:** I would not expect that is necessarily so. I would expect the Attorney General, the Ombudsman and I can sit down on other occasions prior to that.

**Mr. Swart:** When do you expect to make your final response to the Ombudsman?

**Hon. Mr. Elgie:** Do you have any timing on that?

**Mr. Crosbie:** Once again, Mr. Swart, that raises another issue, because we are at the subsection 19(3) stage now. Our responsibilities under the act are to reply to the Ombudsman's letter, which we will be doing shortly.

**Mr. Swart:** That was my question.

**Mr. Crosbie:** I realize that, but let me get on. When he gets our reply, he then has to decide what his section 22 report will be. Until we see that report, it is kind of hard to decide what our final position should be.

**Mr. Swart:** Perhaps I did not ask it clearly. When will this response be made? You said you have had two meetings. When will this response be made?

**Mr. Crosbie:** As I said, shortly. We hope to do that in the very near future.

**Mr. Swart:** What do you mean by the near future? Are we talking about two weeks, two months? What are we talking about?

**Mr. Crosbie:** I would hope we could do it this year.

**Mr. Swart:** I want to change the thrust of the questioning just a little bit to ask the minister if he agrees with the statement of his predecessor. Last April 23, Mr. Walker stated that your ministry must use its full legal capacity in opposing the action taken by the investors in the event that you wish to recover some or all of the payout which may result from the action from the federal government.

**Hon. Mr. Elgie:** My deputy was there at the time of those discussions and indicates that statement was made in the light of the federal government position with respect to any request we might ever make of them. I think you understood that.

Will you comment or elaborate on that, Mr. Crosbie? I wasn't there at the time.

**Mr. Crosbie:** The question, the way it was put, asked whether the minister was in agreement with the statement of the former minister—

**Mr. Swart:** Yes.

**Mr. Crosbie:** —that it would be necessary to rely on all the legal remedies if we expect compensation from the federal government. That is the position the federal government has taken.

If I could just turn your statement around, the federal government has indicated that if we do not rely on our legal remedies we should not look to them for any compensation. So to answer your question of whether we would have to rely on our legal remedies if we expect compensation from the federal government, their position is that we will.

**Mr. Swart:** I know that is the professed reason for opposing the actions of the investors with every legal means you have.

**Mr. Crosbie:** That is not true. Those actions are progressing, as you know, with a test case funded by us.

**Mr. Swart:** The lawyers are funded, but Mr. Walker stated in this document—this is the question I have just asked—that you will use all

legal means in opposition to that, even though you may be funding the lawyers for the other side. This document stated that you are going to fight that case tooth and nail in the courts to try to get a favourable ruling. I am asking you if it is still your position and your ministry's that you will proceed in that manner.

**Hon. Mr. Elgie:** The Attorney General is handling the course of those actions through the court, not me.

**Mr. Swart:** But you realize the statement was made by the Honourable Gordon Walker, your predecessor, not the Attorney General.

**Hon. Mr. Elgie:** The deputy has indicated the circumstances and the reasons those statements were made.

**Mr. Swart:** So the answer to my question is, yes, that is still the policy of the minister and the ministry. I have some reservations that that is the only reason, the real reason.

You may know that by motion a year ago I asked the committee to have a solicitor appointed to report to the committee on what legal rights you might have, what possibility there would be of collecting anything from the federal government, in fact what responsibility they had with regard to Re-Mor, and the committee turned that down at that time.

2:30 p.m.

Perhaps you would like to comment on why we would not have proceeded in this manner to have justified the statement here, justified the reason for doing everything in your power to prevent them from getting a settlement.

**Hon. Mr. Elgie:** Although I wasn't a part of that committee or in this ministry at that time, I do recall that our view simply was that we had difficulty understanding your view that matters should be tried in committee and not in the court.

We believe that the evidence to be adduced through that route that some investors have taken will be adduced by the courts.

**Mr. Haggerty:** Due process of law.

**Hon. Mr. Elgie:** That's right.

**Mr. Swart:** When are you anticipating that you will be able to make a decision on whether there is going to be compensation for these victims? Surely you must have had some discussion with the Ombudsman about timing. I know there are other procedures which may have to be gone through, but what is your scheduling, recollecting that the Premier of this province (Mr. Davis) said in the spring of 1981 that he had

hoped the decision would be made by that fall, before the end of the year.

**Hon. Mr. Elgie:** The deputy has indicated that we anticipate responding to the Ombudsman before the end of this year.

**Mr. Swart:** Do you have any idea of the whole procedure? You have to get a final report back. You will not indicate whether you might expect this would be done by next June, or December 1983, or whether it will go into 1984?

**Hon. Mr. Elgie:** I can only repeat that I would hope that it would be a few months at the most. Clearly, I cannot give you a timetable, and you know that, because I do not know how long the Ombudsman might take for his final response. As soon as I know that I can answer your question more clearly.

**Mr. Swart:** The Ombudsman is not responsible to the minister, but I'm sure he would speed up his process if requested to by the minister.

It is your hope then, I won't say expectation, that it should not be too many months before the final decision is made?

**Hon. Mr. Elgie:** We have already indicated to the Ombudsman, as he has to us, that we hope to resolve it as quickly as we can.

**Mr. Swart:** In view of your refusal to discuss the recommendations in the report—

**Mr. Chairman:** We have had a fairly lengthy discussion on that theme.

**Mr. Swart:** No, not the recommendations.

**Mr. Chairman:** No, the minister is not at liberty to discuss those.

**Mr. Swart:** In view of your refusal to discuss the recommendations in the report, or the findings of the report, even though you obviously have given some information from it to the media, and even though I find there is nothing in legislation to prevent you from divulging that information here you have decided not to do so, therefore I will have to conclude my questioning at this time.

**Hon. Mr. Elgie:** I won't conclude my remarks, but I will say that clearly you and I have different interpretations of section 19. I look on that in section 19 as a period of discussion and investigation, and discussions with the Ombudsman, not in a public forum.

If you and I disagree about the interpretation of the act then I accept that, if that's what you are saying—as long as you are saying nothing more than that.

**Mr. Swart:** Perhaps there is one other question I would like to put.

Would the minister get for us, before we complete the estimates, a letter from the Attorney General on whether there are any laws which prohibit you from divulging this information to us at this time? Would you get that from the Attorney General?

**Hon. Mr. Elgie:** I don't believe I need to ask the Attorney General to interpret the intent of section 19. My own understanding of it is the understanding I intend to operate under.

**Mr. Swart:** Perhaps the committee would like to have that, so we know whether or not there is a reason other than the one stated.

**Mr. Chairman:** Are there any other questions under vote 1502, item 3?

**Mr. Breithaupt:** There are a number of areas that I would like to raise, particularly with respect to insurance matters. As members will recall, our select committee on company law spent five or six years dealing with insurance issues and there are four or five points that I thought we might briefly discuss with the superintendent present.

I should start off, of course, by saying that Murray Thompson, as our superintendent of insurance and with his responsibilities in the financial institutions division, has been most amenable and helpful over the years in developing terms of reference for the insurance industry within this province, and has certainly been most helpful to the select committee.

I suppose the first thing that we could more particularly discuss is the matter of automobile insurance rates. I'm sure a number of members have received letters from their constituents talking about changes in rates. I would like to hear from the superintendent what monitoring is going on with respect to rate changes.

I recognize, of course, that within the province we do not require approval in advance of insurance rate changes, but rather allow companies to base them on the experiences they've had.

Is there any monitoring going on at the present time with respect to those rates, since they seem to have a higher public profile than insurance rates in other areas?

**Mr. Thompson:** Mr. Breithaupt, if I may respond first in generalities on that: yes, we do monitor the market and have continually noted a wide fluctuation between high and low rates. As you appreciate, it is very difficult unless you take some norms, such as the mature driver buying the minimum limit of \$200,000, etc.

The program we have does involve keeping in

touch with the rates of a minimum of the 20 leading insurers in the province. The majority of them make a form of voluntary filing with us, if you want to use the expression, of their current rates.

We are doing this every second month now. At one time we were checking about half-yearly, but there have been such rapid changes in the marketplace recently that we are checking them every second month.

Our checking process involves not only what the company tells us they're charging but what is actually happening in the marketplace, because it's moving with some speed. We, in turn, check the rates with the brokers, etc., because there are adjustments being made practically on a daily basis, in some cases.

Illustrative of the fact that it is a very highly competitive market, there are probably two factors at play. Right now in our opinion the rates are, or were, badly depressed. If you're a company operating in this market, you have a desire to keep your good business. That's always a compelling factor on the rate you're charging, that you're not driving your good customers away. Of course, there is always the desire in a competitive marketplace to attract good business.

Those two factors are very enhanced at the present time. It's a keen, competitive marketplace today.

**2:40 p.m.**

Our last review was in September. We're taking a mature driver with a three-year claim-free experience driving a 1981 four-door Chev Impala less than 10 miles to work, and buying \$200,000 liability, \$100 deductible collision and \$50 deductible comprehensive with, of course, the accident benefits. We would show in that market, as we examined it, a low of \$359 and a high of \$875.

**Mr. Haggerty:** That's quite a spread.

**Mr. Thompson:** That was an extreme spread at that time. It's over 100 per cent. The normal spread, which we've been running in the last five years, would be about a 30 per cent spread.

**Mr. Breithaupt:** I was going to say, a quarter to a third might be understandable.

**Mr. Thompson:** Yes.

**Mr. Breithaupt:** That kind of differential is worthy of publication.

**Mr. Thompson:** If you get into that you will probably find that the low rate has not yet been adjusted. There are still, in other words, some



bargains around in comparison. Certainly shopping around can get you an advantage.

**Mr. Breithaupt:** Could we talk for a moment about the Ontario insurance exchange which has been announced in the Legislature. Since I have known Bob Hilborn in a variety of aspects over the years, I was pleased, of course, to see that he was taking on the responsibility with respect to the creation of this attempt to place some of the risks within the development of a local reinsurance market.

How has that developed over this past month? When do you think it will be in place and doing what you expect it may do?

**Mr. Thompson:** I gather the minister is very keen on this. He might want to say something.

**Mr. Breithaupt:** If he is keen, I certainly welcome him to the group.

**Hon. Mr. Elgie:** The selection of the members of that committee is about to be completed. Following that, Col. Hilborn and that group will be assessing the market within this country and trying to learn from the experience in other areas, particularly New York, and will be having broader discussions with the industry.

Col. Hilborn has been asked to report to us within six months with the group's recommendations. I hope he can live up to that timetable. If he does, and if it has the support of the industry, I hope the implementation of it through legislation and so forth will follow shortly after that.

**Mr. Breithaupt:** Let me follow along then with the comments the minister has made.

I would start with the view that, of course, I welcome the development of that kind of an exchange in Ontario. One of the areas of reinsurance costs and the necessity for having contracts or excess coverage laid off in other markets has been our immaturity, in that sense, within the province to deal with these matters on our own. This kind of a project is just great, as far as I'm concerned.

Part of it, of course, in setting out the opportunity for reinsurance contracts and excess coverages within our own financial experience, may be to influence rates which will ultimately benefit the consumer. Looking at that kind of influence, I would then take the next step with the minister as he looks at the matter of auto insurance increases.

Possibly these increases may be moderated somewhat by an easier reinsurance market. We have seen comments in the press with respect to the expectation of possibly 30 per cent increases.

Of course, the minister, in another emanation, has this price czar responsibility to look at the nine and five or six and five circumstance with respect to price increases. Is the minister satisfied that the increases which are being sought are justifiable with respect to cost of replacement, labour and other components, so the increases there fairly reflect increased costs at a time when we are all trying to hold necessary increases to the six and five ratio or whatever the realities of the marketplace require?

**Hon. Mr. Elgie:** I don't think any of us ever like to see increases, but as I tried to point out in my opening remarks and in response to questions—I think Mr. Thompson has referred to it—one cannot help but be impressed with the fact that the industry has had rates that have been depressed for some time, reflected ultimately in the fact that they had to use something like \$900 million from their investment funds to pay for the claims part of their operations.

**Mr. Breithaupt:** From investment income?

**Hon. Mr. Elgie:** From investment income. Indeed, if you look over the past four years, it's surprising how little the various segments of the auto insurance package increased, while on the other hand we were seeing British Columbia and Saskatchewan a year or two years before increasing their rates rather dramatically, something in the neighbourhood of 40 per cent. Is that right, Mr. Thompson?

**Mr. Thompson:** In 1980, yes.

**Hon. Mr. Elgie:** From our point of view as people who would like to hold prices down, what we're seeing, unfortunately, is a price increase occurring later than elsewhere, but which is clearly coming into place in a market that has been depressed in terms of its rates.

**Mr. Thompson:** In taking a rough five-year comparison on it we'll see that certain factors have been at play. While claims frequency has decreased slightly from 1977 to 1981, which is our last full year, the claims frequency on third-party liability accidents was 7.2 per 100 cars in 1977 and 6.6 in 1981, but the amount of the average claim escalated from \$1,479 in 1977 to \$2,460 in 1981. That's just in third-party liability.

You get reversed things in collision where frequency—and I don't know if you know, Mr. Breithaupt, in your experience in this area, whether you've can deduce social trends from this, I don't know. The frequency of collision claims has increased, but whether that's because people are hitting each other or something I

don't know. Anyway, it's increased from 7.6 per 100 cars in 1977 to 8.7 in 1981. The amount of the average collision claim has increased from \$745 to \$1,115.

Comprehensive coverage claims have jumped by from 7.2 per 100 cars to 9.7, for some reason, and the average claim has increased from \$246 to \$420. So you have two parts of the insurance package surging ahead in claims frequency and amount of claim. One part, the third party coverage, is decreasing in claims frequency, but is certainly escalating in amount.

I think you have other factors at play there, such as tremendous increases in repair costs over those periods of time, something like 120 per cent. That part of the coverage that's going for repair, parts, etc., has increased dramatically.

**Mr. Breithaupt:** I am always interested in reading the headlines on the Toronto Star editorials, because they very crisply require the Legislature or whomever to "Do this" or "Do that." They remind me of the wording of the national anthem, God Save the Queen, which was once defined as "a series of short, sharp demands on the deity." That may well be the case as you look at editorial comments on occasion.

**2:50 p.m.**

In the editorial that appeared in the Toronto Star on September 11, 1982, points were raised with respect to automobile insurance increases that make it worthy of the ministry to ensure there is some monitoring being done on whatever increases may be necessary because of the pass-through of costs and because of the uncertainty of the component costs two or three years from now when those claims may be settled.

We have had a superintendent of insurance in this province for some years—not the present one, but for the past 105 years a variety of persons who served in that post—so I think the ministry now has an obligation to have—not necessarily a pre-approval system, I do not find that the slightest bit attractive, but I think there is a public concern to ensure those costs are fair and reflect the component parts Mr. Thompson referred to that make up an insurance premium.

I recognize that, as the minister said, many hundreds of millions of dollars from investment income have gone to make up the shortfall of premium income needed to satisfy the obligations of the companies. Some of that investment income, quite clearly, comes from the shareholders' investment in the companies, but as we all know, much of it comes from the early

payment of policyholders' money. We now require that the company credit the income related to those premiums to the person who has put up the money.

From the comments made by the select committee on company law, I think that now goes into the calculation of premium. The person who has paid the money gets the additional credit of the interest on that prepaid portion of the premium to more properly benefit and balance out the costs of that policy.

I encourage the ministry to have a certain monitoring approach. In difficult economic times, in the times of restraint we are all faced with, it must be clearly seen to be a function of government to be clear and open about making information available to the public on matters such as insurance premiums.

If the costs—the increase in labour cost for repairs, the increase in the crash-parts cost and the uncertainty of increased settlements for today's accident two or three years down the line, which the premium must take into account—are explained, reviewed and are open, then I think the industry will benefit, the responsibility of the ministry will be seen, and the general public will accept the reality of what that equation totals. It is the absence of knowing what that total is or how it is achieved, that I think brings in the comments, to a degree, on the cost of automobile insurance.

You can add in the differential between the insurance system being in private corporate hands and conducted by government if that is a presumed saving. Even if you discount that difference and make a value judgement on that system, which I did years ago, you must clearly understand what those costs are at the earlier stage. As a result, you have a better view of insurance premiums within the province, not only the high profile of automobile insurance, but in the other areas of general and life insurance too.

So, there is a requirement to monitor. I would encourage the ministry to keep a fairly high public profile so that what is being charged is seen to be appropriate and fair.

**Hon. Mr. Elgie:** Mr. Thompson may wish to comment on that. I am prepared to pursue discussions with him about that, including those as to the value it might have. If there is value and if it is feasible in terms of the cost it might entail, we are prepared to pursue those discussions.

Having said all that, I think Mr. Thompson would say to you that a comparison of rates throughout the country still shows a very favour-

able rate situation in this province, in comparison to those where it is fully regulated and others where there are rating boards. However, I think we are prepared to take your recommendation on it and pursue it.

**Mr. Thompson:** Yes. I should add, for information purposes, that we do check rates across Canada. As a comparison, we also do several of the larger United States cities, such as Boston, equal in size, etc., to Toronto. It is very difficult to compare the US jurisdictions, but we do try to keep a handle on it in that way.

The other point is one the minister made on the insurance exchange. He said we would regard that as desirable, as being a full, open-market situation without any complicated restrictions on what could be placed on that exchange.

Similar exchanges have what we thought of in our pursuit of this as artificial restrictions on what business could go on the exchange, to try to protect the local or domestic market. For example, in the New York exchange there are certain risks you have to offer to the domestic insurers first, before the business can go on the exchange.

I know the minister made it clear that we did not envisage that as a desirable thing, that there should be a complete and open competition in the business that is placed there.

**Hon. Mr. Elgie:** It is similar to complaints there have been about other exchanges, is it not?

**Mr. Thompson:** Yes, it is.

**Mr. Breithaupt:** There are just two other insurance themes on which I would like to spend a few moments. One is my favourite topic of age, sex and marital status, that we have looked at in the past.

**Mr. Haggerty:** I have a supplementary question to Mr. Breithaupt's. I think my name is down on the list.

**Mr. Swart:** On a point of order, Mr. Chairman, are we supposed to be finished with this vote, number 1502, at 3:30 p.m.?

**Mr. Chairman:** Yes, at 3:30. It is a total vote.

**Mr. Swart:** My colleague, Ed Philip, would like to deal with the subject of business practices before that time. I wanted to talk about auto insurance too, but perhaps I will not. I would like some assurance that we can get into that.

**Mr. Breithaupt:** Mr. Chairman, there were only two other points I wanted to talk about in insurance matters.

**Mr. Chairman:** Mr. Haggerty, did you have a supplementary question?

**Mr. Haggerty:** I just was not quite satisfied with the response to the question of my colleague, Mr. Breithaupt, on the restraint program the government has put forward.

I recall the automobile insurance industry was a little bit sceptical about the controls of 1975 and 1976. Some of them were screaming they could not operate under the controls at that time.

**3 p.m.**

I am sure the minister is well aware the premiums were high at that time too. On a number of occasions certain companies had rebated back to the policyholders.

I would like to see some tighter screening on the automobile insurance industry in this area, so we are not going to be taken for a ride, if I can put it that way, due to the high cost of purchasing automobile insurance.

Mr. Thompson has indicated that the rate varies, for example, from \$359 to \$800-odd. That is quite a spread. That reminds me of the high interest rates that are spread between the consumers' investment and the industry itself. I think Mr. Breithaupt mentioned that.

I suggest there should be a closer scrutiny of the industry in this area. I am concerned about the people who have had an accident, with damage to their vehicle, and the cost of parts replacement. I read some place that if you had to go out and buy all of the parts for a \$10,000 vehicle, you would be looking at an expenditure of around \$38,000. That seems exorbitant. I think there should be a little investigation into the cost of parts.

I have seen a situation where just a tail light—just a piece of plastic—has been broken in a rear-end collision and it costs \$115 to replace that eight by eight-inch reflector. I think it is damn well ridiculous that such a price tag should be put on such an item. There should be some investigation in this area, so the consumer is not being taken on it.

I suppose I can get into the topic of the adjusters too in this area. Often a person who purchases automobile insurance, for example, not only has to fight the insurance company to get a fair deal on replacement parts on the car or in getting it repaired and that type of thing, but he has to fight the adjusters.

On the American side, they have what they call a public adjuster. He is more like a public defender who ensures a person does not get



taken for a ride, as I would call it again. I do not think there is anything under the act that has this for consumers in Ontario. There is no such a thing as a public adjuster, who is going to work on behalf of the consumer.

**Hon. Mr. Elgie:** No, we do not have that. It operates on a free market.

**Mr. Haggerty:** Have you given any consideration to it?

**Hon. Mr. Elgie:** This is an industry where competition works to its fullest. Mr. Thompson can give you comparison rates between the various provinces that show our rates are comparable, if not better. I think that is the best indication we have.

Murray, do you have those figures?

**Mr. Haggerty:** I think the rates in the Niagara Peninsula are higher than in many other places. If you take the overall average rate in certain communities, they are pretty high in the peninsula area. Much of it is not the fault of the Canadian driver there, but results from the tourists over here and their accidents. That reflects upon the insurance rates for that area.

**Hon. Mr. Elgie:** Murray, do you have those figures?

**Mr. Thompson:** Yes. I will run across them: British Columbia's rate is \$572. Calgary has a high of \$777 and a low of \$345. Regina has a \$439 flat rate. Winnipeg has \$480. Given at Toronto—

**Hon. Mr. Elgie:** What is it at Toronto again?

**Mr. Thompson:** It is \$875 high, \$359 low. Montreal has \$1,040 high, and \$657 is the low rate.

**Mr. Haggerty:** I understand the situation in Montreal.

**Mr. Thompson:** Saint John, New Brunswick, has a high of \$616 and a low of \$333. Charlottetown has a high of \$398 and a low of \$271. Halifax has a high of \$599 to a low of \$311. St. John's, Newfoundland, has a high of \$644 down to a low of \$311. You are throwing in cities of different size with highly different risk factors.

On the other point, the original complaint the insurance industry had on the controls that went in back in 1975 was the fact that it took the previous year's experience and locked it into the computer. You had companies that had made high profits, and could continue to make high profits, whereas I know of one particular company that had five years of substantial losses and finally got everything together in the one year, the right year. It was a large company and they made a \$16-million profit, but had to cough it all

back because their record for the year before was the yardstick. The complaint was about about taking an arbitrary yardstick of the one year.

The other factor is if there is not a profit, a combined underwriting and investment profit; half of that should go back, in our rule of thumb, into the surpluses of the company as capital to increase its capacity or ability to meet the future, and to write the insurance that's increasing in amounts. As values increased, there was also an increase in the population and a need for insurance. So there are a lot of factors at play.

The parts question; Mr. Breithaupt's committee had a run at that. It is very hard to get a handle on that one.

**Mr. Breithaupt:** They seem to cost an awful lot more when they are put in little boxes by themselves.

**Mr. Thompson:** Yes. I think there is a long storage charge. It is difficult to get it back through the insurance industry.

**Mr. Haggerty:** You talk about the storage of parts. In the farming sector, if you buy a piece of equipment the industry is compelled to have a supply of parts. They have to guarantee that almost.

I suggest that they should have sufficient inventory and supply in the automobile industry for a period of four or five years. I suppose the same thing applies with a Volkswagen. It has not changed its style that much; their parts are pretty well uniform and yet the price seems high. Perhaps we should be looking at the industry itself and find out what the problem is.

I was concerned about the matter of a public adjuster because I find that, at the present time, there may be more of an adversary system with the consumer favouring the insurance company plus the adjuster to get a reasonable shake in getting his automobile repaired.

The Americans seem to have the public adjuster. In a sense, he is like a public defender. You have an option of going through him or through a company adjuster.

**Mr. Thompson:** Ontario eliminated the public adjuster quite a few years ago; I am not sure of the year. About 25 years ago, I believe, they eliminated this public adjuster because the experiences at that time indicated that the adjuster was basically an ambulance-chaser. He was an impediment to the system rather than an aid.

**Mr. Haggerty:** Another example is a municipality that may be installing a water and sanitary

sewer system where they have to go into bedrock and quite a bit of blasting may have to be done. You can have warnings go out to the property owners to say, for example: "We want a check made of your premises. You may have the odd little crack in the wall," or something like that. But, I tell you, after they go through you may have a quarter-inch gap in there. You try to get a settlement with the insurance company in this matter and you are fighting the adjuster, the insurance company and the industry itself.

I suggest to you that this is another area that should be looked at. In many cases, these persons are not compensated for damages done. The municipality says: "Well, we have insurance here and so has the person who is doing the contracting work. You go after them." There is no protection for the public at all in this area.

**3:10 p.m.**

**Mr. Chairman:** I wonder if we could move on now. That was a rather lengthy supplementary.

**Mr. Breithaupt:** I just have two very small questions.

**Mr. Chairman:** I have Mr. Kolyn's name down next.

**Mr. Kolyn:** Thank you. I would like to pursue a few things with the superintendent of insurance. You were just discussing rates for accident insurance and things like that. It seems to me the rates have been going up in the last five or six years. The only thing I can attribute it to is illustrated by a personal incident that occurred.

I drive a big, old North American car, and my wife has a compact, North American-made again, a Mustang. She had a little accident; the damage did not look like too much but when we went to find out how much it would cost to repair we were told \$2,100. I was a little bit surprised because, as I said, it just looked like a fender-bender to me.

When I was there the adjuster told us that small cars now do not have frames like those in the big, old cars and you have to cut off and replace a section. He says if it is beyond the point where it is feasible, if the car is not new enough—if the repair would cost \$2,400 and the car was worth \$2,700—they would not do it, so they write it off.

It seems to me that while we are going into smaller cars we are going into higher costs because of the way they make the cars. I think that is the relevance I can make of why some of the costs have been transmitted through into the high insurance costs we have.

**Mr. Thompson:** Yes, there is no question. In addition, very, very expensive machinery is necessary to repair some of the small cars.

In other words, this repair business has changed dramatically because of the construction of the small cars and the way they are built. I would think that is a fair assessment. It is costly; they are carving cars up.

Actually, we had one complainant who insisted we look at his car. We did go and look at his car. It is amazing that they can do this kind of work—actually cut a car in half. But you reach a point where it is not economically feasible and you write the car off. Of course, the insurance industry will say to you that is what is happening to replace your loss.

**Mr. Kolyn:** There was one other area Mr. Breithaupt touched upon. We were talking about the insurance exchange. What exactly is an insurance exchange?

**Mr. Thompson:** Someone coined this one as sort of a Lloyd's of Toronto.

**Mr. Breithaupt:** I wonder if they will serve coffee.

**Mr. Thompson:** We would love it to do that, to be that prestigious and credible in time, but I think it would take a long time before we could ever replace or even perhaps significantly dent that very august market.

Lloyd's is a group of individuals formed into syndicates that are really the insurers, each of whom will take all or part of a particular risk. Brokers are accredited to deal on that exchange and the brokers will actually place the risk, probably from an agent outside or something. They will go in and, in effect, market that risk and it is bound by the syndicates or the insurers as they stand in their place. They will take percentage parts of it, or something, but they will eventually arrive at a price and bind that risk.

It is very much like an open trading pool, but the broker is there, shopping around for the best price available. He will go to one group and back to another, etc., to get a risk placed and get a price determined on it.

**Mr. Kolyn:** Would this exchange apply across Canada or just to Ontario?

**Mr. Thompson:** Your imagination can run wild on this. I would hope that it would apply not only to Canadian risks, to stop an outflow. We spent about a year researching this within the department. We know that at least \$1 billion in premiums leave Canada. We would like to tax some of that. We also know that includes many

risks, exotic risks, that cannot be placed here. Because they are of such an unusual nature, nobody has really bothered to develop that particular type of business.

We also know reinsurance is going out of the country. One area that we are very interested in, which is not included in our estimates of premium dollars, is the amount that captives are insuring offshore in Cayman Island companies, and particularly Bermuda.

We know that a tremendous amount of premium dollars is going out of Canada. To have this facility here would keep that money here. If you keep it here, it is invested here. If it is invested here, it works here and it gets right down to jobs and people.

It is important from that point of view, but we also think that if the exchange, over time, can develop its own credibility there is no reason in the world why people from other countries will not come to Toronto to place these risks if we are an open, competitive marketplace. If we establish that we are sound and credible and we pay claims, etc., we can actually become an importer of dollars.

**Mr. Breithaupt:** I suppose, Mr. Chairman, it is fair to say to Mr. Kolyn that if someone was insuring a tavern in east-end Toronto, part of that premium covers the basic \$50,000 that any insurance company might want to risk of their own on a claim. But in the excess coverages to get up to \$1 million in case someone slipped on the stairs, there is a piecing off of those additional excess coverages, that often have to be bought abroad, where one person will take one per cent and someone will take two per cent and see if they are ever called upon to pay.

If we, on the other hand, can place those risks locally, then the capital dollars, that portion of the premium that is going to buy that slice of coverage, need not be spent outside. It is a development which is very encouraging from a capital retention viewpoint in the overall balance of payments.

**Mr. Kolyn:** One other aspect sort of bothered me. Have you talked to your federal counterparts about it? Are they supportive of it being here in Toronto, rather than in Ottawa or something to that effect?

**Mr. Breithaupt:** There are no risks in Ottawa.

**Mr. Chairman:** Big risk in Ottawa.

**Hon. Mr. Elgie:** No, we have not spoken to them.

**Mr. Thompson:** We certainly have not from the insurance aspect because the business of

insurance is a provincial matter. We have had conversations with respect to whether or not foreign capital could come in to become part of a syndicate. That would involve Foreign Investment Review Agency applications. Financial institutions around the world have expressed an interest in participating. This is up to Robert Hilborn, but I do not see why in that instance we would not welcome foreign capital, because the money will be here.

**Mr. Kolyn:** I do not recall whether you said there was support or resistance by the industry itself for this type of exchange.

**3:20 p.m.**

**Mr. Thompson:** There is a fear of competition. Everyone says publicly it sounds like a great idea, but you have to look at it from the point of view that it is competition coming into the marketplace. There is a reluctance, but there is some indication that while we would not want to limit the type of insurance, this would operate generally in the property and casualty industry.

There has been an indication that some of the life companies would like to participate in the syndicates. It would be a convenient, easy way for them to get into the property and casualty type of business.

**Mr. Kolyn:** That is the clause "use of the investments," I would imagine.

**Mr. Thompson:** Yes. That is an interesting development with it. A lot of people are going to come into the industry because they feel that if there is a game in town involving insurance, they cannot afford to miss it. There are others who are very reluctant to see it come about because it could offer competition. I think publicly everyone will say it sounds like a great idea.

**Mr. Kolyn:** I have one more question for you. Recently you were at a conference in Quebec, and one of the Toronto papers reported that you had declared certain warranty plans to actually be insurance. Is there some danger to the public about this type of plan?

**Mr. Thompson:** To clarify, our concern was not so much in the case of a warranty that is being offered by a manufacturer. It is for the consumer who is buying the product to say, "I am content." The manufacturers are usually around if something goes wrong. We also were not talking about retailers. If retailers want to offer some plan or give some form of warranty on the sale of a product, we are not that concerned about it at this stage.



We were concerned about certain third parties, if I could call them that, or warranty companies that are offering a form of protection beyond that being offered by either the retailer or manufacturer and that are charging a fee, be that a fee for service or repair or something. All in all, you have a third party in a commercial transaction who is getting a fee for guaranteeing something.

In our opinion it looked an awful lot like insurance. It had the elements of insurance guaranteeing the obligation of another for a stated premium. We decided to call that insurance and to say that if you want to go into that business and call yourself a warranty company, we know an insurer can do that, but we want to have some guarantee that warranty company will be around two or three years from now.

The history in Ontario of warranty companies back 105 years, I believe Mr. Breithaupt said—

**Mr. Breithaupt:** It was 1877, when you joined the ministry.

**Mr. Thompson:** We have files that long about various warranty companies. They seem to have an average life expectancy of about a year and a quarter. We have said to them that if they want to get into that business, they must have their obligation insured or backed up by an insurance company, or they must have their obligation to perform bonded by an insurance company.

At this stage we have not gone into, nor do we at this stage want to get into, what is a good warranty and what is a bad warranty or what warranties should or should not include. We are really looking at whether there is going to be money available in the event of a claim made under this.

**Mr. Kolyn:** In other words, you are saying we need some type of regulation for this type. For example, you could have a used car and a third party would guarantee they are going to fix it.

**Mr. Thompson:** Yes.

**Mr. Kolyn:** You would like to see some kind of measures to protect the consumer and us.

**Mr. Thompson:** Yes.

**Mr. Chairman:** Mr. Breithaupt, unless you want to change the rules of the game, you have about two minutes left on this entire vote.

**Mr. Breithaupt:** I would be happy to change the rules, because I know Mr. Philip has a number of questions.

**Mr. Chairman:** I have Mr. Hennessy's name down as well.

**Mr. Breithaupt:** I am quite happy. There are only two other areas where I would look for a brief comment. One is on the matter of how the changes with respect to age, sex and marital status in the construction of auto insurance premiums are coming along.

The other is whether the Ministry of Consumer and Commercial Relations and the superintendent are monitoring the new aspect of structured settlements in personal injury claims. They appear, very fortunately, to be coming into practice within the province so the persons involved are taken care of, but their surviving relatives do not necessarily receive a windfall that might or might not be otherwise earned and has to be paid for, therefore, by the rest of us as consumers and insurance premium payers.

**Mr. Thompson:** Let me take the last one first. Structured settlements are something that can be advantageous to all parties if they work well. In effect, a general insurance company will say: "We will agree to the amount of the damages of the auto accident as X thousand dollars. To get more out of this money, we will go out and buy the individual a life annuity or a term annuity, depending on whatever the conditions of the man's recovery are."

We have also done this in connection with the motor vehicle accident claims fund in several cases.

It serves a very good purpose, because the present system dumps a load of money—and it seems the amount of awards are increasing greatly—on an individual who may or may not be capable of looking after it or looking after himself. By structuring this with his consent, and it is really a consent matter at present, he can be guaranteed an income for life.

By and large we have not seen any abuse developing in that area. It seems to be a very worthwhile way of utilizing the money to the advantage of the victim.

Mr. Breithaupt raises an interesting point. I have not seen any evidence of that come to my attention, if there is any abuse to it.

**Mr. Breithaupt:** It seems to be working out satisfactorily as these settlements are being accommodated in other ways.

**Mr. Thompson:** Yes, the real controlling factor would be the fact it is a consent matter. You have to have the plaintiff, the victim, agreeing through the defendant, the insured, to provide this. We have not had any complaints in the area at all. What we have had seems to be very supportive. It is a good point.

**Hon. Mr. Elgie:** What is the progress with the age, sex and marital status?

3:30 p.m.

**Mr. Thompson:** Monday of this week the statistical committee met and we decided on the system for the gathering of the new form of statistics, which we will commence January 1. We shall now be operating on a system with two sets of statistics; one under the old age, sex, and marital status classification and one under a new classification. We can start building some experience as to whether or not there are other factors that are credible, that can take the place of this.

At this stage, everyone has been looking at the question of age and saying, "Well, you can replace that with experience or something." There are a lot of oversimplifications and I think this will give us, over the next year, at least a body of statistics to say what the other factors are that can come in.

We are really talking about trying to make the system more equitable. We do know that the present grouping of the male under 25 means very high premiums. Within that group, at least 50 per cent of those young male drivers who obtained their licence at age 17 or 18 reach the age of 25 with no accidents and no claims. This is the group in which we are trying to bring other factors to play to make it more equitable. I would hope that by January 1 we shall have our alternative test system in operation.

**Mr. Chairman:** Mr. Breithaupt?

**Mr. Breithaupt:** I believe Mr. Philip has a number of themes, and I want to give him a fair chance.

**Mr. Chairman:** Mr. Hennessy is the next speaker. We have now passed the time we allotted for this vote. Is it agreeable to the committee to continue? I do not care how we do it, but we could vote at 4:45 p.m. on everything that is outstanding, no matter what.

**Mr. Breithaupt:** You mean 3:45 p.m., Mr. Chairman?

**Mr. Chairman:** I mean 4:45 p.m.

**Mr. Breithaupt:** Are you planning on sitting until 5 p.m.?

**Mr. Chairman:** No, until 4:45 p.m., and then our five hours for today is up.

**Mr. Breithaupt:** I do not believe there will be many comments, as there rarely are, on the technical standards program, vote 1503. So if this continued for a few more minutes, it probably would work out quite well.

**Mr. McKessock:** Mr. Chairman, I have a point I want to bring up under the heading of motor vehicle accidents.

**Mr. Chairman:** Mr. Hennessy is first, then Mr. Philip, then Mr. McKessock.

**Mr. Hennessy:** I would just like to make one comment.

Recently, we bought a second car for the family, an older 1976 Ford Maverick. I was amazed, when the insurance bill came back, being registered in my name, for \$640. If you pay for three or four years, you pay what the car is worth. It was a little bit expensive as far as I was concerned, because my driving record is a good one and to get a bill of that nature made me wonder if they were losing money.

**Mr. Thompson:** That is a second car in a family with the same owner. Depending on what the coverages are, that to me, just offhand, seems like a high rate.

**Mr. Hennessy:** If it was a Rolls Royce, you could see what the coverage was for, but it is a 1976 Maverick and is not a new model car. That is what amazed me.

**Hon. Mr. Elgie:** It is what is hidden underneath it.

**Mr. Thompson:** We shall be glad to look at it for you, because it does seem high as a second vehicle.

**Mr. Hennessy:** That is what made me wonder. It is not an expensive car. It is not in the city of Toronto, there only 130 people in the area, and there are not as many cars as in Toronto.

**Mr. Breithaupt:** You ought to have your agent shop around.

Interjection.

**Mr. Breithaupt:** You have to watch out.

**Mr. Hennessy:** Then you can discuss prices with them?

**Mr. Thompson:** That is something we do.

**Mr. Philip:** I have a number of questions on the home warranty program of the Housing and Urban Development Association of Canada.

**Mr. Chairman:** Excuse me. Mr. McKessock has a question on the motor vehicle accident claims fund.

**Mr. Philip:** I realize that. That is why I was saying that is what my questions were on.

**Mr. Chairman:** Mr. McKessock, would you like to ask your question while Mr. Thompson is still here?

**Mr. McKessock:** Thank you. I am bringing up one of my constituents' issues. I guess you would

call it a constituent problem. I think we often discover the inadequacies of different acts or of the system when the constituents bring problems to us.

This is under the motor vehicle accident claims fund. I was wondering if the minister is aware that it takes so long for some of these claims to be settled.

Mr. Howard Kennedy of Durham brought something to my attention. Five years ago he was in an accident in which his wife and son were killed, and also another couple, Mr. and Mrs. Liefso. He had his back broken, both legs and arms broken, and he was in a bed and then a wheelchair for a year. So I was fairly surprised when he walked into my office about a month ago, with really no noticeable handicaps, but telling me that he has not received any settlement from the accident claims fund as yet.

He had another son in the accident who has not been as fortunate as his father and has been left with brain damage. The father has made a remarkable recovery, a lot through his own efforts. He even did the ploughing when they still had to put him on the tractor with a front-end loader. He ploughed all day in the field.

Now he is getting around on his own quite well, but the fund that was supposed to help him out has not come along so well.

**Hon. Mr. Elgie:** Excuse me, has the liability been disputed in this case?

**Mr. McKessock:** No, there is no dispute in the liability.

**Hon. Mr. Elgie:** Whose is the liability?

**Mr. McKessock:** I shall give you a wee bit more background.

At that time, there was a limit of \$100,000 on the claim fund, right? Of course they were afraid at that time to settle, or it would all have been eaten up with lawyers' fees.

There is one problem here. His son was covered under workmen's compensation and now the Workmen's Compensation Board and Mr. Kennedy are fighting for their share of that \$100,000. So it is really one section of government working against another, and that is part of the delay.

The Workmen's Compensation Board want their part for the son. Then there is another problem. Mr. Kennedy had \$27,000 private insurance; under the act, I understand that private insurance is to come off that \$100,000.

The main part of their discussion is, when is that \$27,000 going to be taken off? Is it going to

be taken off the \$100,000 before they share it, or are they going to share it and then take the \$27,000 off Mr. Kennedy's share, rather than off the two of them together?

It seems strange to me that it would take five years to figure this out. The state they are in right now is that they are going to let the courts decide when this \$27,000 is taken off. Of course, that is with the lawyer for the claims fund, Mr. Jim Laing, in Owen Sound, who told me that it should be going to the courts some time before the end of November.

I do not know whether you are aware that it was taking this long to get these through. As far as I am concerned, something seems wrong with it, because under today's money situation and lawyers' fees, very little is going to be left for this fellow.

Today, we find banks selling for half price property that has been left in their hands. Some farms are going for this, because they knew back six months ago that at 20 per cent they would have their full value back in three years. This is five years and it really means that it has not been much use.

3:40 p.m.

**Hon. Mr. Elgie:** Of course, I do not know anything about this particular case. Mr. Thompson may and he may also have information about the general time frame of cases within the Motor Vehicle Accident Claims Act.

My offhand view, from the information you have given me, particularly since you were rather surprised when you saw this gentleman in your office without a visible handicap, I would suspect the first reason for delay was to assess what the ultimate outcome was going to be.

I know that in practice I always preferred people not to settle or reach any termination until they were certain what the final outcome was going to be. So that would be the first delay—

**Mr. McKessock:** As I mentioned, with his broken back, limbs broken, in a bed and wheelchair for a year—

**Hon. Mr. Elgie:** Then his prognosis for recovery would certainly be a matter that people would want to wait on, but I do not know whether that can account for the whole time.

**Mr. McKessock:** Others might still have been in a wheelchair. The reason he recovered was because he allowed them to lift him on to the seat of the tractor with a front-end loader to continue his farming. Of course, he has also lost



a lot in the farming business because he had to get rid of a lot of things he could not look after.

**Mr. Thompson:** I would think first that, it is as the minister has stated. I gather these people have retained counsel and I am sure counsel would not enter into a settlement until they had a very clear, definitive medical opinion as to the prognosis to take into account, so undoubtedly there is that delayed time frame, and this is pretty general in any personal injury case.

I know that if workmen's compensation is involved, under the Workmen's Compensation Act all those claims, if he is receiving benefits under it, from workmen's compensation—

**Mr. McKessock:** That was his son.

**Mr. Thompson:** That is the son. Well, in that case, by law, the son's claim would be subrogated to the Workmen's Compensation Board.

Our experience with them has been that, even though they have the rights of the son to prosecute the action and recover, they usually do so very expeditiously and on behalf of the individual and will pass those moneys over for pain and suffering.

I think we have had no difficulty with conflicting agencies. We did have a battle in the Supreme Court of Canada a couple of years ago with the Ontario health insurance plan claiming on this \$100,000 limit, but we have had none with Workmen's Compensation Board. They have been very open, but I think it deserves—

**Mr. McKessock:** You have one here.

**Mr. Thompson:** Yes. It deserves looking into as to why there is the delay. On the \$27,000 private insurance, I do not know what kind of insurance that is. If it is an accident and disability policy, it has nothing to do with this settlement.

If the man is, obviously, inconvenienced by the time delay, it deserves an inquiry. I will certainly see that the director of the fund does that and I will get back to you on it, because there must be more.

As I say, I do not know the nature of that insurance. The fund is only there to pay the—it is in the shoes of the uninsured driver. Now I take it that is an identified driver—

**Mr. McKessock:** Right.

**Mr. Thompson:** We do have problems when there are unidentified drivers, because we have to go to judgement in those cases, but I would certainly think it is well worth inquiring into.

**Hon. Mr. Elgie:** Can you give us the information, Mr. McKessock?

**Mr. McKessock:** I think I have given you most of the information I have. You mentioned the time delay and inconvenience: it goes back five years, and as I mentioned, if he had had his share four years ago by now it would have doubled had it been invested at 20 per cent. He probably would not have been able to invest it. He certainly lost that amount by not having it; he has lost double what he could get now.

The \$27,000 insurance; that is why it is going to court, to decide whether they are going to take it off the \$100,000 before they divide it between the Workmen's Compensation Board and themselves. To me, that seems to be a long time to settle what appears to be a small problem.

The other thing is, either you or the minister mentioned that they would wait a certain length of time to see what his recovery would be. I would like to point out to the minister that these claims were for \$200,000 each. Both workmen's compensation and Mr. Kennedy put in a claim for \$200,000.

It is not as though they are going to get any less than \$100,000. The fund was so small at that time it was not covering half the claims that were in there, so they are not going to get half their claims if they get the full amount. What I am trying to say here is there was no reason for them to wait any time to find out about his recovery because there was not going to be enough money there to cover the claim anyway.

The other thing I would like to mention is that apparently this \$27,000 has to come off the \$100,000. I cannot understand why it cannot come off the \$200,000. There are \$200,000 worth of claims there. Why do they not say, "Okay, he has other insurance, we will take it off there"? That means he is now claiming \$173,000, even though the claim is only going to be good for \$100,000. But why drop that \$27,000 of his own insurance, down to take it off the minimum that this fund has on it?

**Mr. Breithaupt:** The claim comes out of what is awarded, as opposed to what the policy limits might be.

**Mr. McKessock:** It comes out of what is awarded, but what right does this act have to say that the \$27,000 should come off the limit that is on this fund? If there is a legitimate \$200,000 claim in this case, why does the \$27,000 not come off the \$200,000 and we work from there? Perhaps this means a change in the act or whatever, but to me that makes sense.

I cannot see why, just because there is a limit on the fund, the fellow is going to be further

discriminated against by having insurance of his own, by taking it off the limit that is on the fund, if there is a legitimate claim that is twice that much.

**Mr. Chairman:** I might suggest that you sit down with somebody—

**Mr. McKessock:** I would like to get the minister's view on what I have just suggested.

**Hon. Mr. Elgie:** I think the first thing to determine is what exactly that \$27,000 was insuring; whether it was a disability policy, in which case the WCB may be involved in that aspect.

**Mr. McKessock:** It is not the son's, it is Mr. Kennedy's insurance.

**Hon. Mr. Elgie:** It is awfully strange that he would only have \$27,000 motor vehicle accident insurance.

**Mr. McKessock:** It wasn't his fault.

**Hon. Mr. Elgie:** Therefore, it is probably medical disability insurance of some sort.

**Mr. McKessock:** That is right.

**Mr. Thompson:** It may be the accident benefits under the auto policy.

**Mr. McKessock:** That's right.

**Hon. Mr. Elgie:** The fund, as I understand it, was set up to provide protection from people who were uninsured drivers, or drivers who did not have sufficient insurance to cover a claim up to a maximum limit.

**Mr. Breithaupt:** Or the hit and run.

**Hon. Mr. Elgie:** It was never intended as an augmentation program to other insurance. It was intended to ensure a certain minimum protection to people—by the way, a minimum that has always been at least four times higher than in any other province—but it is not meant to augment insurance another person might have. Supposing one had \$75,000 insurance, or \$99,000 insurance, you are saying that should be augmented by that \$100,000.

3:50 p.m.

It does not matter how you cut the cake, whether you want to split it up by some other formula, the issue is really the purpose of the fund. The purpose of the fund is to provide a level of guarantee overall. It is not intended to augment other insurance in any way.

**Mr. McKessock:** Which means that if Mr. Kennedy had had \$100,000 between himself and his son, and had \$100,000 of medical insurance which his own insurance covered, he would not have had his vehicle paid for at all.

**Hon. Mr. Elgie:** I think we have to know the nature of the insurance he had before you make those statements.

**Mr. McKessock:** I am raising a hypothetical case, it could be—

**Hon. Mr. Elgie:** Murray, would medical disabilities be a part of this?

**Mr. Thompson:** I think it wouldn't. It shouldn't. I am just hazarding a guess it would have to be paid by Mr. Kennedy's own insurance company to him, and as the accident benefits are no-fault benefits these amounts are deductible, because they are compensation paid to him for loss of earnings, etc., that is usually recoverable in the action against the guilty party.

In these circumstances they are in effect a form of advance payment and therefore they are usually deducted from the amount of the judgement. In fact, not "usually," they are, by law. If it was an insurance company and not the fund there those amounts would be deducted.

**Mr. McKessock:** My point is I really do not agree with that part of the law, that \$27,000 should be taken. It is really saying that it wouldn't matter whether he had any insurance at all.

The main point was that he had claims higher than that, and why isn't the law changed to take it off his claim of \$200,000 instead of off the \$100,000 limit on the motor vehicle accident claims fund?

**Hon. Mr. Elgie:** The law does not address itself to the initial claim. The law addresses itself to the insurance that a person is deemed to have.

In that particular suit, if the plaintiff, your constituent in this case, gets a judgement for a larger amount he still has the right to pursue for that larger amount on an individual basis, if I am not mistaken. Is that correct?

**Mr. Thompson:** That's right.

**Mr. McKessock:** If the person who has no insurance has any money, which they usually don't have.

**Mr. Thompson:** From the other point, the thing is that he could be compensated twice. If he was paid accident benefits for the loss of time from work and he had that money in hand, and then his claim went against the guilty driver and his judgement included those amounts and he recovered them, in theory he would be compensated twice for his loss of earnings.

It is usually deducted, and the law requires it to be deducted.

**Mr. McKessock:** As long as he was not over the \$200,000 he would not be getting paid twice.

**Mr. Thompson:** Yes.

**Mr. McKessock:** I agree that if it was over what his claim was, he shouldn't get it. That is the point where I feel the act is wrong. The main issue here is why I brought it up, because it is five years and he still hasn't got any money.

**Mr. Thompson:** No. It is worthy of looking into.

**Mr. Chairman:** Mr. Philip, you are under the business practices section, primarily? Can we carry 1502, item 3?

Item 3 agreed to.

Item 4 agreed to.

**Mr. Chairman:** Any questions under item 5, just so we can keep on top of things here?

**Mr. Philip:** Why don't we handle items 5, 6 and 7 together and then we will—

**Mr. Chairman:** We can discuss them together. We have exactly 50 minutes left on everything; this vote and votes 1503 and 1504.

**Mr. Philip:** I want to thank Mr. Breithaupt in being helpful in getting us along to this vote. No doubt I will return the favour some day.

**Mr. Breithaupt:** I hope so.

**Mr. Philip:** Does Mr. Simpson have the HUDAC home warranty people along with him to answer questions or is he going to take the heat?

**Mr. Simpson:** No, I don't.

**Hon. Mr. Elgie:** Could I just introduce Mr. Robert Simpson, the executive director of the business practices division, who is here today. Do you want Mr. Howard from companies division up too, or not?

**Mr. Philip:** I think Mr. Simpson can answer my questions.

**Mr. Chairman:** Will Mr. Philip be starting the questioning?

**Mr. Breithaupt:** I have had my fair share of comments so I will let Mr. Philip go ahead.

**Mr. Philip:** I want to say this to the minister, as a fairly new minister in this portfolio. Of all the agencies, tribunals, quasi-judicial bodies I have had to deal with, it strikes me as an irony that in one ministry you can have the competence of the Ontario Securities Commission and the incompetence of the HUDAC home warranty program.

It is the difference between night and day, and it suggests to me that it is clearly something

that you, as a new minister, must be concerned about. You obviously are capable of having a tribunal that works efficiently and effectively and has, albeit very expensive talent, none the less very talented talent in the Ontario Securities Commission.

I can't believe that you can't do that with some of the other tribunals, be they the mortgage brokerage licensing, which has come up from time to time under the justice committee, or this one.

I guess this is the most frustrating tribunal I have ever had to deal with. They seem to do everything possible to frustrate the vendor and to take as long as possible to remedy any situation.

There are a number of contradictions in the way the program is run. First of all, in a pamphlet they hand out they advertise that there is only a remote chance that a builder will go bankrupt. I quote from the pamphlet, entitled "Understanding Your Warranty": "There is only a remote chance of your builder or vendor going bankrupt or a major structural defect developing in your house, but if this should happen you are covered by the warranty program."

The person who obtains that assumes he is covered in the case of bankruptcy, but you and I both know that with one hand they give it and with the other hand they wriggle out of their responsibility through regulation, which has never had to come before the House for debate, by saying: "Unfinished workmanship is not covered."

I suggest to you that is blatantly dishonest with the public. They think they are covered and most people do not read the act and regulations and do not know that unfinished work is not covered. In reply to a question you said, and I quote, "The purchaser is responsible for the contractual arrangements with the builder and before taking possession. . ."

I will come to that statement later, but there is a statement here somewhere in which you say basically that a person shouldn't take possession of the house which is unfinished. I have to ask you, does that mean then that no one can take possession of a house in the winter time, because that is basically what you are saying?

**Hon. Mr. Elgie:** I do not recall saying that. What I said, from my best recollection, was that the first purchaser would insist upon a hold-back in circumstances where he or she was taking over a home that was incomplete.



**Mr. Philip:** We can deal with the hold-back problem. The hold-back then essentially means that you are there on closing day, you make a hold-back, you are ready to move into the house, and you have a choice. Either the builder sues you for holding back, and this has happened in many cases, as Mr. Simpson will tell you; or in the case of a hot market, such as we had a couple of years ago, the builder says, "Fine, I'm not closing," and there you are with your furniture out on the street, and in fact he can sell it, or he was able to sell it, for \$10,000 more to the next guy that comes along the street.

**4 p.m.**

What I am suggesting to you is that the hold-back is a good idea, but one of the things you have to do is to put it in statute, to say it is part of the purchase agreement, and that there can be no stipulation in a purchase agreement that makes it illegal to hold back up to a certain amount. I have contacted real estate lawyers and those lawyers have told me, simply, if you don't do that you won't have a close.

Indeed, those of your warranty people I have talked to have told me that the hold-back would save the warranty a lot of problems; it would save them a lot of conciliation problems. I am saying put it right in the legislation. In a private member's bill I introduced in 1982 I suggested a change to section 17a that would say:

"Every agreement between a vendor and a prospective owner shall be deemed to contain a provision entitling the prospective owner to pay up to \$3,000 of the purchase price to the prospective owner's solicitor, to be held in trust for the parties and to be . . . released to the vendor when all the work on the home is completed," and allow the corporation, namely the HUDAC home warranty program, to act as a conciliator where the builder and purchaser cannot agree that the work has been completed.

If you were to do that, you would save the warranty program an awful lot of hassles, because the fastest way of getting work done, as your own chairman has said, is to hold back, but you cannot hold back right now without being sued, and therefore lawyers have advised their clients not to hold back.

**Hon. Mr. Elgie:** Take for example, the possibility of liens occurring under the Mechanics Lien Act. Are you telling me that if the purchaser held back money for the possibility of liens, as he is required to do by law, the builder

would have a valid case? Is that what you are saying?

**Mr. Philip:** The builder, you will find, will often have in his contract that no hold-backs are allowed.

**Hon. Mr. Elgie:** That is not enforceable. If he has in the contract "no hold-back for liens," that is not an enforceable paragraph or phrase in a contract, and I don't believe any lawyer would tell you any different to that.

Is that right, Mr. Simpson?

**Mr. Simpson:** I believe that is the case.

**Mr. Philip:** I can tell you that there are cases which I have documented and can show to you where hold-backs were attempted, and two things happened. First, the developer sues; and, second, the HUDAC home warranty program says, "This is civil litigation, we are not going to intervene."

**Mr. Charlton:** I think the reality of a situation like this is that the clause you just suggested might not hold water. In most offers to purchase you are not dealing with the question of hold-back at all. The assumption at the time you make the offer to purchase is that the house is going to be ready by closing date and that is not an issue that gets dealt with.

You make an offer to purchase for a particular price and, when the closing date comes, if the home is not completed, if you refuse to pay the agreed amount, the contractor or the person who is selling has no obligation to complete the deal.

**Hon. Mr. Elgie:** It is my understanding that people hire lawyers to complete closures so they can receive competent advice about their rights and obligations. If that is a mistaken impression, and I don't think it is, then you are talking to people who are different to me. That is my understanding, that lawyer is there to advise them about their obligation to hold back with respect to prospective or possible liens.

**Mr. Philip:** With respect to uncompleted work?

**Hon. Mr. Elgie:** A lien can be put on a property on the date the last work is completed. That is what you have a lawyer for. Are you saying these lawyers are not acting with competence and they allow this to happen?

**Mr. Philip:** I am saying these lawyers have advised that they will end up with either the closing not going through, which in the hot market is a real threat to people—

**Hon. Mr. Elgie:** The people are so eager to get the house they will bypass their legal obligations. Would you ever do that?

**Mr. Charlton:** The question of whether I would or not—

**Mr. Philip:** You could be out on the street on closing day. You have sold your home and you know you are going to be in litigation for not delivering that home to someone else. I have had some instances where the person has given the appropriate two months' notice and there is another tenant waiting to move in the following morning.

The lawyers simply say: "You have a choice. You are legally in the right; we can go after the developer and you can end up without it closing. So what if we get your deposit back, so what if we even get him to pay us for some of the damages. The fact is he can sell the house for \$10,000 more than you originally agreed to pay, so he is in pocket and he knows that." Furthermore, the unfinished work is not covered under the regulations, under your home warranty program.

**Hon. Mr. Elgie:** Let us just stick to that deal. From what I remember of the law, that is what tendering is all about. You tender in compliance with the law, and the law would say you have an obligation to withhold for liens. You tender, and any damages that flow to you as a result of anything that arises out of that tender are added to the whole process, whether that means temporary accommodations elsewhere or whatever. Am I wrong in that? That is my recollection.

**Mr. Crosbie:** I would think so, under the circumstances described. I would agree that what Mr. Philip has said is true. You get in situations where the people are not prepared to rely on their legal rights because the practicality of the situation is that they need some place that night. It is small comfort to say we can sue, and in six months' time we might get a forced closure on this property.

I think it comes back to your remedy, because any remedy that presumably states they cannot do that does not advance the situation because that is what the law states now. If you have a legitimate mechanics' lien, and the builder is forcing you to waive that before he will close, he is currently disregarding the law.

**Mr. Philip:** The remedy is a procedure that would have an automatic \$3,000 holdback, that would have an automatic conciliation of that \$3,000 by the home warranty program. You do that and it would make it illegal for a developer

either verbally or in writing to have someone sign away his rights to a holdback.

What is happening, and what happened in that Thornhill development, is that the developer said, "Fine, I won't close if you hold back."

**Hon. Mr. Elgie:** And some of those purchasers were lawyers who knew he was paying out money in response to an unimportant clause.

**Mr. Philip:** He also knew the house had gone up \$25,000 since he had agreed to purchase it. Even if he got a civil settlement he would still be out of a home that he had looked a long way for, and his settlement would in no way compensate for the difference in inflation from the time of purchase on a plan to the time of near completion.

**Mr. Crosbie:** I would think that would be part of his claim for compensation. His measure of damages would be the cost of replacing the home with a comparable one.

**Hon. Mr. Elgie:** Let us take the other side of the coin. Supposing you took the house and there was nothing that needed completing, but it turns out a few days later that there are a few liens filed against the property, because the individual, for whatever reason, decided—on the advice of his lawyer, presumably—not to take advantage of his legal obligation and withhold the lien under the Mechanics' Lien Act. Are you saying that all of the other purchasers of homes in society should contribute towards the paying off of those liens?

**4:10 p.m.**

**Mr. Philip:** I am saying that if you had a \$3,000 automatic payoff, you would save the purchasers in society by cutting down on the number of arbitrations that the Housing and Urban Development Association of Canada home warranty program has to have because they would have an automatic weapon.

**Hon. Mr. Elgie:** Mr. Simpson, do you have any comments on that?

**Mr. Simpson:** Not really, there is not much I can add to what you have said. There are few people and far between who enter into a transaction with the advice of lawyers. People still have a tendency to sign offers to purchase and agreements of purchase and sale before they go to the lawyer or get involved in these things, but ultimately you get to the question of what is prudent, what is imprudent, who is giving what advice and whose obligation it is down the road to take care of that particular situation.

If they considered setting aside for just a second the legal arguments whether it should

cover or not cover completion and where that might go—let us assume for a minute it is not part of the program—this particular coverage would be an add-on to the program. You eventually get to how much you go to, how much you do to take care of this kind of thing and who pays for it. You ultimately do have questions of judgement.

We both know, Mr. Philip, in many of those deals—I think you have just indicated this yourself—it comes down to the question in a hot market, that if you want the deal, if you want the house, sign the contract.

**Mr. Philip:** Why would not the same thing happen, supposing that you—

**Mr. Simpson:** I was just going to say you indicated yourself that you want the house because you think you have got a hell of a deal. You know prices are going up and you figure when the time comes to make the judgement, when you finally close six to eight months later, it is worth \$20,000 more anyway. You are willing to take the deal.

In a hot market, that is the kind of judgement people tend to make. When the market cools, if it gets really cold, they live to regret it. You have to address all of those kinds of questions when you are trying to deal with this.

**Mr. Charlton:** Just to get it into perspective in terms of a couple of questions you asked, the kind of situation you are in is that, first—I think Mr. Simpson hit part of it—95 per cent of the time, or even perhaps a greater percentage of the time, people are signing their offer to purchase before they ever go to see their lawyer.

They go out with a real estate agent, they look at homes, or they go to a builder and they look at house plans and they decide on the house they want to buy. They put in an offer to purchase and they say, "Okay, now I have got the process started, it is time to go to a lawyer." They go to the lawyer but the basic commitment is already made.

The second thing in terms of the situation Mr. Philip raised is that inevitably the question of unfinished things are last-minute situations. You go to the builder a week before the closing date, you look at the house and it is not finished. He says, "It's going to be finished by Friday morning, don't worry about it." Comes Friday, the closing day, and it is still not finished.

You are in your lawyer's office trying to close the deal and you have not only the situation that Mr. Simpson just put to you, but you have also the situation—even if the market hasn't gone up

and there is no good-deal pressure to settle, you are in the city of Toronto and there are no rental vacancies—that you have to move your family into a hotel for six months while the legal action is going on to get at this guy. The pressure is all against the purchaser in this kind of a situation.

**Mr. Philip:** I just want to ask one question. The chairman of HUDAC admitted publicly in a debate we had on a sandy lot up in Thornhill that a holdback would help him. Why have you people a year later—I am sure you have read my bill—not yet implemented it? What's wrong with it? Your own chairman says a holdback would be useful to him and yet you still have not implemented it.

**Hon. Mr. Elgie:** Let us assume your bill was law. We would have two obligations; we have the liens, the obligation to withhold money for liens—and failure to do so means you have a personal obligation yourself—and the right to hold back. Supposing the builder on the day of the closure says, "You hold back, no deal." What is the difference between saying, "If you hold back for liens, no deal," and, "If you hold back for holdback, there is no deal"?

You are still faced with the same problem. Are they mad for the property, no matter what? Is that not the real issue? You can pass all sorts of things into statutes, but if people do not want to enforce their obligations—

**Mr. Philip:** The moment you put it in statute, then it is part of the deal. Then there is an automatic \$3,000 and you cannot say that.

**Hon. Mr. Elgie:** Regardless of whether there is completion or not, or anything?

**Mr. Philip:** Yes.

**Mr. Breithaupt:** What you are doing is making it an acceptable practice to withhold.

**Hon. Mr. Elgie:** And you are increasing the price of the house for those who do not want to withhold. You increase the price of the house for those who have no need to withhold.

**Mr. Philip:** I submit to you that the bureaucracy, the amount of time being spent on the present conciliations, is costing a lot more. Your own chairman will admit it. He said on TV that night that an automatic holdback would greatly reduce the amount of proceedings under him, because the builder knows that if he wants to get that \$3,000, he completes the work. That is a strong motivation if he has not completed the garage floor or something like that.

We are not talking about large items. We are talking about maybe \$1,000 or \$2,000. In the



case of the Thornhill homes or some of the others that I have run into, it is a matter of finishing off the garage floor or the basement floor, or putting a door on a garage or something like that that he has not done. That \$3,000 is a strong motivation for him to get his ass over there and get the work finished.

**Hon. Mr. Elgie:** I think that is unparliamentary.

**Mr. Philip:** Is that unparliamentary?

**Hon. Mr. Elgie:** Get his feet moving.

**Mr. Philip:** Get one of his more competent agents over there.

**Hon. Mr. Elgie:** I know what you are saying. I just do not see how, if you cannot get people to withhold for a lien when they have legal advice and know they have to do it, and do not do it because they do not want to upset the deal, why you will not have the same problem with respect to the thing you are talking about.

You are introducing a whole new set of bureaucratic problems with respect to the house that he thought was completed at the time he closed it, but that there is a withholding in any event. You are going to have lawsuits and all sorts of things over whether or not the withholding—

**Mr. Philip:** I do not know why you have so much trouble understanding that if you change it to a procedure, and it is part of the act, then it becomes an automatic thing. Therefore people will do what is an automatic legal thing under the act. Now the holding back for a lien is an optional matter.

**Hon. Mr. Elgie:** No, it is not. To try to take that right away from you is an unenforceable clause, so it is more than a voluntary wish.

**Mr. Philip:** But the option is still there for the vendor to do it or not to do it. To make it automatic that the vendor holds back or the solicitor holds back the \$3,000, it then becomes part of the practice and therefore will become part of the manner in which houses are purchased.

If you want to cut down on the bureaucracy, that is the fastest way of doing it. If you check with the chairman of HUDAC, you will find he will agree with that. I would hope you would look into that.

I would also like to know why you can possibly justify—

**Hon. Mr. Elgie:** Do you not understand that there are two sides to the issue? All I am saying is that there are two sides to this issue.

**Mr. Philip:** One of the sides is the tremendous amount of time I and my staff spend—and

which is never calculated in any budget—writing letters to Mr. Simpson, among other people, and to the HUDAC home warranty program. I am sure that is a hidden cost. You know how much paper comes from my office to you.

**Hon. Mr. Elgie:** And all well handled by the executive director of—

**Mr. Philip:** I am sure he is well intentioned, but I have been waiting six months for him to let me know whether he is going to get a change of oak doors on one development, so that if he is not I can start proceedings in court on behalf of those people and I still have not heard from him.

**Hon. Mr. Elgie:** There is a letter in the mail to you now.

**Mr. Philip:** Okay. That is because I tipped off the minister and said—

**Mr. Simpson:** No.

**Hon. Mr. Elgie:** No, when I asked him this morning about it he said, “I mailed the letter yesterday.”

**Mr. Philip:** Okay. Did you solve the problem?

**Mr. Simpson:** No.

**Mr. Philip:** No. You see, that is what happens, but you gave us a good answer.

4:20 p.m.

**Mr. Breithaupt:** You mailed the letter yesterday, did you not?

**Mr. Philip:** That is typical. It has taken six months to get an answer.

**Mr. Breithaupt:** It might be a great answer.

**Hon. Mr. Elgie:** It is a great answer.

**Mr. Philip:** If it mucks up my court case, you are my enemy for life.

The basic problem I want to deal with is this whole misleading practice in their literature. They tell you that you are covered under the warranty program for bankruptcies and then under their regulations they remove it.

I have found the regulations. It is limits of liability, item 6, sub 6. Unfinished work is not covered. The fact is, of course, that if a builder is going into receivership, going bankrupt or in financial difficulties, quite often he will not finish.

How do you account for giving with one hand and taking away with the other? Do you not basically consider that dishonest?

**Hon. Mr. Elgie:** First of all, there may be some other interpretation of that statement. I have not got it in front of me.

Do you recall the particular statement Mr. Philip is referring to? Have you got it there?

Certainly, if there is a bankruptcy, your deposit comes back to you.

**Mr. Simpson:** Yes.

**Hon. Mr. Elgie:** So that is true.

**Mr. Simpson:** I think they would argue and say quite frankly, whether it is the chairman or the president of the Housing and Urban Development Association of Canada, that their literature can be read a number of ways if you pick a sentence here or you pick something there. But, overall, the literature says exactly what you have.

They will give you your money back, your deposit up to \$20,000, if a developer goes bankrupt. They will fix things that go wrong in the first year for workmanship and materials and make sure that it is brought up to the building code standards, and for four years thereafter you have major structural—

**Mr. Philip:** They will not if it is unfinished work.

**Mr. Simpson:** No, again we are back to the question of completion. The program people will indicate that they have never done it, they have never said they would do it, they have never put out literature that says they will complete, they have never said it in a public forum.

**Mr. Philip:** I would ask you when that regulation on unfinished work was added, because that is not in the original regulations—

**Mr. Simpson:** That is true. It was in, I believe, August 1977 or February 1978. You would know better than I.

**Mr. Philip:** So you admit then that it was not in the original regulations, that the literature went out, it is still suggesting that people are covered for bankruptcies—

**Mr. Simpson:** No, what I would suggest is you are quite right—I do not have the regulation in front of me. The first set of regulations was not clear on that. But when they clarified the regulations, when they made that change—and however you want to argue the purpose or whatever, the change was made not to take away something they had been doing or understood they were obliged to do or the law made them do, it was because they realized, “Anything we have committed to do, anything we launched the program for, anything we put in our literature, we are doing, and this regulation needs to be changed in order to clarify that.”

They were not attempting to sort of steal

away something in the middle of the night; but you are quite right, it was changed.

**Mr. Philip:** If I am following your reasoning correctly then, before August 1977 unfinished work was not done.

**Mr. Simpson:** No.

**Mr. Philip:** There was not one instance of unfinished work that was done.

**Mr. Simpson:** I could tell you there have been times, I am sure—I could not say categorically that they have never finished something. There could be times when, in order to make a development viable for purchasers, on balance it may have been more sensible to finish the building than do people out of their house and pay them \$20,000. I am sure there are situations where, in order to facilitate a consumer getting his home, they would complete, rather than give him back \$20,000 or \$10,000, because the person wanted the house.

**Mr. Philip:** Can you tell me how, in a climate like this, someone is supposed to purchase a house? Does it mean that he can only purchase the house six months out of the year? During the winter months you cannot pour the concrete, you cannot finish the garages.

That is your conclusion. If I am a purchaser and I read this regulation I say: “All right, the developer is finished up to a point; the rest of the work has to be done when the warm weather comes. But if I move in, the unfinished work is not covered. Therefore, I had better not take possession of this because I am not insured under the HUDAC home warranty program.”

**Mr. Simpson:** They will not and never have said they will take care of completion. As to winter work, I am no building expert but I spend a lot of time with those guys and these days winter construction is no problem at all. Getting houses completed is no problem at all.

I must say in respect of the Thornhill houses the things we are talking about are not structural, they are not to do with the integrity of the houses. They are, because of that bankruptcy, some air-conditioning units, some shrubs.

**Mr. Philip:** There are also garage floors.

**Mr. Simpson:** Some driveways and, yes, a couple of garage floors.

**Mr. Philip:** That is work that you do not complete in winter.

**Mr. Simpson:** Yes, you can do that work in the winter, sure.

**Mr. Philip:** That was one of the arguments, you see, that was made by the HUDAC home

warranty program. How could you expect them to do it then? They could not complete it then because of the weather. That was why the purchasers—

**Mr. Simpson:** No, they did not complete it because of the bankruptcy. It had nothing to do with the weather. The shrubs and plants would be because of the weather. You cannot landscape in February, but that is about it.

You do not finish the driveways. If they are going to be paved, you can put in the crushed stone, but obviously you are probably not going to lay asphalt between January 1 and April 1. I do not know of anybody who paves in the middle of winter. Outside of those things, there is nothing else that cannot be completed these days.

**Mr. Philip:** I could tell you that we have had one case after another of being told: "You cannot expect them to do it until the spring. Otherwise, it is not going to be done successfully."

I think I have made my point. The fact is that people are moving into houses. They are assuming that the reason their building is not completed is because of weather conditions and, in fact, this clause that you added in 1977 is ripping them off. If you do not want to change it, I think you are just an accomplice in the ripoff.

**Hon. Mr. Elgie:** We are prepared to look at it. We understand there are a couple of sides to the coin; however, that does not mean I am not prepared to look at it.

**Mr. Chairman:** Mr. Philip, could I ask you a question now? We have exactly 15 minutes left today. The original agreement was we were going to deal with votes 1502, 1503 and 1504 today. That gives us two and a half hours next Wednesday afternoon and two and a half hours the following Wednesday afternoon to deal with the outstanding votes.

**Mr. Breithaupt:** I would make a suggestion that we agree to carry votes 1502 and 1503 today. I believe areas in vote 1504 under the racing commission, the theatres branch and the athletics matters will be of some interest to committee members.

It is likely that votes 1505 and 1506 will not have much questioning. At least it has ordinarily been the case that the property rights division and the office of the registrar general have not had much to be asked about, although there will no doubt be interest in vote 1507, the liquor vote.

If we could agree at this point that 1502 and 1503 would carry, I would think in the next two

sessions we could quite nicely deal with the remainder of the items before us. That would allow those here with respect to vote 1504 to leave with the request that they would return next Wednesday afternoon.

**4:30 p.m.**

**Mr. Chairman:** I have one name for a question on vote 1503. Mr. Kolyn had a question on that. Have you got any more questions?

**Mr. Philip:** I have about six minutes and then I will stop at six minutes, no matter what.

**Mr. Chairman:** Is it agreeable? As a matter of fact, we only have three people here who are eligible to vote or carry any suggestions or any motions at all. What Mr. Breithaupt says certainly makes sense to me; I do not care. We are certainly not going to get into any depth with the theatres branch today, regardless of what time we stop.

**Mr. Philip:** How about if I take six minutes and then if we have time left over at the end, rather than carry the vote, we can come back to it and I can ask a couple more questions on this? Is that okay? After Mr. Kolyn.

**Mr. Breithaupt:** That would certainly be fine if the remainder of this time was spent on vote 1502. I know Mr. Philip has particular concerns in this area. We could carry vote 1503 on consent this time.

As I have suggested to Mr. Yoneyama, one of these days we will get at that branch, but we never seem to get at it. If we could agree to carry vote 1503 directly, with perhaps a question or two, that would perhaps sort things out. I am quite content to let Mr. Philip use the remaining time, other than that which Mr. Kolyn wants and perhaps a question that I might have on access to buildings for the handicapped under the building code in 1503.

**Mr. Chairman:** We will carry the two votes at 4:45. Mr. Philip, you are beginning your six minutes now.

**Mr. Philip:** Mr. Minister, if you were to write a letter to me from your riding office sending it to my office, how long do you think it might take for me to get it?

**Mr. Kolyn:** Canada Post?

**Mr. Philip:** Canada Post, not sending it United Parcel Service Canada Ltd.—I would get it the next day.

**Hon. Mr. Elgie:** Anywhere from one to three days.

**Mr. Philip:** Would you agree that it might take 10 days?



**Hon. Mr. Elgie:** I have heard of some things taking 10 days, but not in recent times.

**Mr. Philip:** Then how can you justify a 15-day turnaround appeal, which is what they have? If you do not like a conciliator's report, you have 15 days from the time they mail it to turn that around and file an appeal. How do you justify the fact that on that conciliation report the 15-day appeal limit is not mentioned anywhere?

**Hon. Mr. Elgie:** Is it not?

**Mr. Philip:** No.

**Hon. Mr. Elgie:** Well, it should be. Mr. Simpson, do you have any comments on that?

**Mr. Simpson:** Yes, I would agree immediately with the minister on questioning them. I was not aware that they did not. I know they indicated appeal rights and they set out whom you wrote to and things like that. I would be surprised if there is not, on the current ones, 15 days. We will correct that immediately.

**Mr. Philip:** What I am suggesting is that you correct it by having a reasonable time for appeal. I would suggest to you that 60 days is a reasonable period of time.

What happens is, as you well know, because it is only through your personal intervention that we have been able to get the home warranty program to be a little bit lenient in certain specific cases, that you get someone who does not speak English too well. He gets an official form; he fumes that he does not like the decisions; and by the time he gets to his MPP or his lawyer or somebody, the 15 days are gone.

I have one fellow who was in the United States on a business trip. He got back three weeks later and found out that his appeal process was blown. You get someone who happens to go to Italy on a vacation, which is usually three weeks, and there is no way in which he gets his right of appeal. It is shot.

What I am saying is that when that letter is sent out, it should be underlined in big letters that you only have a certain amount of time to appeal and here is the appeal procedure. They get out of it every time. They say, "You did not appeal within the 15 days."

**Mr. Charlton:** I should point out that, last year, I got my Christmas card from the Premier, which went first class, on January 17.

**Hon. Mr. Elgie:** Maybe that was planned.

**Mr. Haggerty:** You were lucky.

**Hon. Mr. Elgie:** Maybe there was a message there.

**Mr. Breithaupt:** Was that mailed to you at your office?

**Mr. Charlton:** No, to my home.

**Mr. Philip:** I am suggesting that 60 days seems reasonable and I hope you will consider that.

**Hon. Mr. Elgie:** I will look at that. Could I take two seconds to tell you of a recent experience with the notification of—

**Mr. Philip:** As long as it is not added to my six minutes.

**Hon. Mr. Elgie:** —cancellation of corporation charters with respect to nonprofit corporations?

They received a notice in January that if they did not do something by March, so and so would happen. In March they got a second notification saying three months later their charter would be cancelled. There were still 2,000 people. There were people in there who did not want their charters cancelled, so I had the computer reprogrammed and gave them another two months. The letters were pouring in asking, "Why do you not give us more time?"

I am prepared to look at that issue but I will guarantee you that if it is 60 days or 30 days, you will still have the same problem.

**Mr. Philip:** A charter is a lot different than a home owner who says, "The adjudication was not correct and I want to appeal."

**Hon. Mr. Elgie:** Not some of these charters.

**Mr. Philip:** The other thing is the one year. It is interesting. You should call up the office but they would probably recognize your voice. Have someone else call up.

**Hon. Mr. Elgie:** I will have my wife call up.

**Mr. Philip:** Call up and say there is something wrong with your home. You will find that they will tell you to call the builder. The builder will keep leading you on for a year and once the year is over he will say the warranty does not cover you.

**Hon. Mr. Elgie:** What do you say to that, Mr. Simpson?

**Mr. Simpson:** May I just make a quick observation on both things? The 15-day appeal period that is in there is consistent with almost all of the statutes. If they fail to specify 15 days in the letters, we will correct that forthwith. I would be quite surprised if that was the case now. They allow 21 days. They do not stick to the 15 days. They allow 21 days for mail to clear, etc.

Also, Mr. Philip, you are not alone. It is not my special intervention that gets that appeal period extended. The warranty program is willing to waive the 15 days for any home owner under any circumstances, whether because of illness or linguistic problems or absence from the country, to have his case heard at the tribunal.

I am not aware of any situation where they have ever denied a home owner with a problem, the basis for an appeal. If they want their day in court, they will get it.

**Mr. Philip:** They denied it in several instances until I wrote to you and asked you to intervene. You know that has happened. The appeal was granted only after you intervened.

**Mr. Simpson:** If I may—and I do not want to cut into your six minutes—you and I have perhaps created an extraordinary situation where because of our dealings and my apparent intervention it looks as though the only way to ever get anything done with them is through that course of events. I am not sure we should not work to make the relationship a little more direct. I know Mr. Locke is willing. Maybe then we would get away from the complication of having a three-way arrangement.

Their sensitivity or lack of it, whatever it is overall—and I do not know, because they have thousands of dealings every year that do not involve me—I would not agree that if it was not for you and me they would never do anything. I think we complicate it.

**Mr. Philip:** It seems that only by writing to you do we get any kind of results. That may be praising you or it may simply say more about them. The fact is that people do get so frustrated with HUDAC that they do not press their appeals.

I can show you two people on the same street, one who paid \$1,200 out of his own pocket simply because he said, "I am tired of the bureaucracy, I am tired of calling them." It can take three months from the time you call and get in touch with HUDAC for them to send out an inspector. I got a case the other day where it was three months.

**Mr. Simpson:** They are now arranging conciliations in seven to 10 days. That is the reality of today.

**Mr. Philip:** The reality is—I have just written to HUDAC; I probably sent a copy to you and a copy to the minister, or maybe I wrote to you, I have forgotten which—it took three months for them to come out.

**Mr. Simpson:** There could be situations where that happens.

**Mr. Philip:** Then when they do come out—I will not cast aspersions on whether they have given some of these people negative intelligence quotient tests and then picked them accordingly. We had the case of the guy who came out where first the inspector says— If I tell you a story, is this off of my six minutes?

**Mr. Chairman:** Your six minutes have expired. Can we move on?

**Mr. Philip:** I think the minister will find this entertaining and so will you, Mr. Chairman.

4:40 p.m.

**Mr. Chairman:** You tell us after the vote is over.

Can we move on to Mr. Kolyn, please? The time has almost expired.

Mr. Kolyn, a really quick question. Mr. Breithaupt also has a quick question.

**Mr. Kolyn:** I shall have just a quick question. Thank you, Mr. Philip, I appreciate it.

For those of us who have been interested in alternative energy and alternative fuels, propane is an alternative source for us here in Ontario. I was in South Korea recently. They use a lot of propane and things like that over there for cars. The only problem we seem to have, and I think it is the only bottleneck we have with it, is if we had more cars on propane, how would we fill them? The way the system is now, we can only fill one at a time from one tank, or whatever the regulations are.

**Mr. Haggerty:** It is a discriminatory piece of—

**Mr. Kolyn:** I do not think so.

**Mr. Haggerty:** Sure it is. There is no road tax on any vehicle—

**Mr. Kolyn:** Is there any way someone could look into the arrangements where we could work on it a little more positively?

I talked to some people from the Ontario Research Foundation and they suggested to me that they have not had any requests to that effect, or anything like that.

**Hon. Mr. Elgie:** Have you bumped into the problem, Mr. Yoneyama, the problem of—

**Mr. Yoneyama:** Lack of facilities?

**Hon. Mr. Elgie:** —lack of facilities and the fact there is only one propane—

**Mr. Kolyn:** Normally, if you go to fill up your propane-fuelled car, you can only have one

person filling up at a time from the main tank. It is not like a gasoline pump where you can have the hoses going different ways.

We have to overcome that problem somehow if we are going to go to propane more and more as an alternative fuel. You just could not have 20 people waiting 10 minutes each to try to get filled up, one at a time.

**Mr. Yoneyama:** We can look into that. Being a liquid and being under pressure, increasing the number of nozzles coming from the same tank is not that easy. To set up a separate tank is complex in terms of the hoses you may have to juggle from one car to the other.

It is a matter that is being looked at, but as to the safe solution—I shall take down the name—what was the institute you mentioned?

**Mr. Kolyn:** I was at the Ontario Research Foundation, and I thought maybe they could look into it for us.

**Mr. Yoneyama:** We can ask them to help look into that.

**Mr. Kolyn:** That seems to be the bottom line. You could have more cars converted and more people driving them, but you have to make it a little more convenient for them to fill their tanks.

**Mr. Yoneyama:** There is also the fact that the storage tank is above ground. It just needs a little more room.

**Mr. Kolyn:** In our area, a number of service stations have propane tanks. The problem is that if you had 20 cars and 20 people wanted to fill up, we would have to go in line and wait.

**Mr. Yoneyama:** It is the physical length.

**Mr. Kolyn:** So we could say the need for quicker fillups is essential, if we are to encourage Ontarians to convert to propane.

**Mr. Breithaupt:** Under this particular vote, which is one we consistently do not question, year after year, there is one theme I thought we might at least discuss briefly. That is the Building Code Act.

I would be interested in hearing about developments for making greater access for physically disabled persons to buildings. What plans are under way, and how is this matter to be developed?

When you look at the building code, there are those who believe amendments are needed with respect to accessible units in the larger apartment and other residential developments. Many people who were considered disabled and had

to be in an institution now wish and prefer to be on their own and to enter into society in an area, and it is an approach that we would all, I am sure, encourage.

What are the circumstances with respect to the experience under the building code concerning this accessibility theme?

**Mr. Yoneyama:** Mr. Chairman and Mr. Minister, let me just give you a quick rundown on what we have been doing since the proclamation of the regulations under the Building Code Act which was enacted on January 1, 1976.

At that time the number of premises made accessible to the handicapped was very limited. Recognizing that, in 1981 we made an amendment to the code to increase the types of premises which would be made accessible to the handicapped. We have now three being reviewed by a committee made up of government representatives and those from the handicapped organizations.

One of the difficulties we have experienced is that we have had a number of submissions made to us under various association headings. Rather than try to meet each one, we have now asked the associations to try to come up with a smaller group with which we can meet to review some of the proposed additional premises to which the handicapped will have access. As soon as we can get this committee together—we have written to Mr. Longman who has agreed to volunteer to act as the co-ordinator for us—we will then be discussing the branch proposal.

To just give you a couple of examples, indoor swimming pools, day care centres and small restaurants are all included in the next submission at the next stage. So, as soon as I get the opportunity to get the representative committee together, we shall then be in a position to review the branch submission with them. Once we get the consensus, I will then be putting forward further amendments for the minister's consideration.

**Mr. Chairman:** Thank you very much.

We have to call the votes now, because our time has expired.

Shall the balance of vote 1502 carry?

Vote 1502 agreed to.

Vote 1503 agreed to.

**Mr. Chairman:** Next Wednesday, at 9:30 a.m., we shall hear from the office of the Ombudsman. In the afternoon, we will continue with the estimates of the Ministry of Consumer and Commercial Relations.

The committee adjourned at 4:49 p.m.



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### **From the Ministry of Consumer and Commercial Relations:**

Crosbie, D. A., Deputy Minister  
 Simpson, R. A., Executive Director, Business Practices Division  
 Thompson, M. A., Superintendent of Insurance, Financial Institutions Division



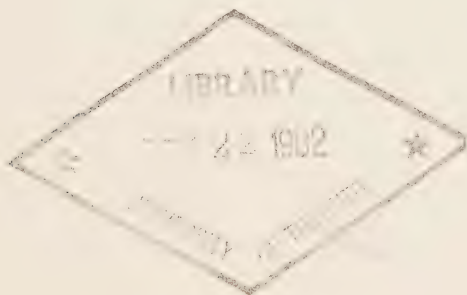


No. G-7

# Legislature of Ontario Debates

## Official Report (Hansard)

**Standing Committee on General Government**  
Estimates, Office of the Ombudsman



**Second Session, Thirty-Second Parliament**

Wednesday, December 1, 1982

Morning Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, December 1, 1982

### ESTIMATES, OFFICE OF THE OMBUDSMAN

The committee met at 9:49 a.m. in committee room 1.

**Mr. Chairman:** This morning we are considering the estimates of the Office of the Ombudsman along with the supplementary expenditures, which were circulated and are also on your desks at the present time.

I call the meeting to order. Mr. Ombudsman?

**Hon. Mr. Morand:** Mr. Chairman, I would like to make a few opening statements, if I may. I have copies for the members of the committee.

**Mr. Chairman:** If the clerk could circulate copies, the Ombudsman has a brief two-and-a-half-hour opening statement out of three hours.

**Hon. Mr. Morand:** Gentlemen, about four years ago I was appointed Ombudsman for Ontario, and during the first three years of my tenure of office it was often alleged that I had a low profile; indeed, some people alleged that my profile was much too low.

About one year ago I accepted an invitation to take part in a seminar in South Africa at the invitation of the International Bar Association, which seminar was to discuss the appointment of an Ombudsman in South Africa. It was to be given to the South African Bar Association to see whether they would sponsor such an appointment. As you know, I did not attend that seminar, although the seminar went on in my absence and I understand that an Ombudsman has been appointed in the town of Johannesburg. Since that time my profile has been anything but low.

During the last four years, I am pleased to say, the office has been successful in reducing the number of open files in the office. When I was appointed there were approximately 2,750 open files; today there are approximately 1,350. That means we have reduced the number of open files by more than 1,400.

Over that period of time we also concentrated on closing old files and we have successfully reduced or virtually eliminated these old files. During the year 1979-80, right after my appointment, as I said, I put on a drive to close out the old files, and in that year we closed 128 files that

were more than 33 months old. During 1980-81 we closed 177. During 1981-82 we closed an additional 112 old files. Today in the office there are approximately 40 files that are over 33 months old, excluding the Pickering files. I am pleased to advise members that I hope the Pickering files will all be closed in the very near future.

During that period we have also improved the speed with which we handle complaints and information requests in our office. Over 70 per cent of the people who contact our office have their matters attended to within one month, 88 per cent have their matters attended to within six months and over 93 per cent have their matters handled within 12 months.

In the trips I have taken, about which I will have more to say later, I have found no office that exceeds the speed of our office in handling complaints. The select committee on the Ombudsman said in its ninth report, which was recently adopted by the Legislature:

"The committee shares the Ombudsman's view that his office is 'first class.' Its procedures are efficient. Its investigators are thorough. Its reports are well documented, well written and comprehensive. The Ombudsman's decisions as found in his section 22 reports are objective and based upon material facts as disclosed by the investigation." A little later in the report the following is also stated, "The office may well rank among the best in the world."

I am pleased to be before you. I was before this committee in 1979 and again in 1980. In 1981, because of the pressure of your business, you were unable to reach our estimates and you did not ask me to appear before you. At the meetings in 1979 and 1980, we discussed our estimates and I answered any questions that you elected to put to me regarding the operations of our office and our estimates. Again this year I am prepared to do the same.

There seems to be a misapprehension that I have refused to discuss and disclose the costs of the operation of my office. At no time was this ever my intent. I always felt that this committee was the proper forum in which to make such disclosures, but I stated that if the Legislature felt that it should be discussed in another forum

I would be pleased to comply. Four times the select committee on the Ombudsman made recommendations to the Legislature that they should have the duties of reviewing the Ombudsman's estimates; four times the Legislature failed to take action on these recommendations. I took this as an indication that I should continue in the normal fashion and discuss my estimates with this committee.

In its last report, the ninth report, the select committee repeated its request and the Legislature adopted its report. I had notified the chairman of the select committee, the member for Leeds (Mr. Runciman), some long time ago that I would be pleased to supply the information if the Legislature so indicated. Immediately after the adoption of the select committee's report our budget submissions were turned over to the chairman. It is unfortunate that the difficulty between the select committee and myself arose, because the co-operation between the committee and our office has been excellent. They have been very supportive of our office throughout my tenure.

Several other matters have been discussed in the past that I feel deserve comment. First, it has been indicated that I recently took a trip to Zurich and that senior staff were misinformed as to my whereabouts. I do not know who misinformed any senior staff, nor do I know which senior staff were not advised of my whereabouts. I contemplated not going to Zurich. As some of you may know, I have been having a little trouble with my eyes, and I have to have an eye operation. As well, the meeting commenced on Thanksgiving Day.

I had no desire to go to Zurich, but about a week before the meeting I decided that, having accepted a position as a member of the board of directors of the International Ombudsman Institute, I had a duty to attend. I therefore decided to attend. Certainly most of the senior members of my staff knew where I was. I assigned the delegation of my duties to Mr. Tom O'Connor, one of the senior members of my staff, and I certainly did not misinform anyone as to where I was going.

I might point out that I left on Sunday afternoon, arrived Thanksgiving morning, was there for Thanksgiving, Tuesday and Wednesday of that week, and returned on Thursday. The total number of working days that I was out of the province was three. Certainly I did not hide from anybody the fact that I was going.

The second item dealt with was the election of a Mr. Blair Taylor of my office to the hydro

commission of one of the neighbouring municipalities of Toronto. It was suggested that there was a conflict of interest.

First of all, it was my understanding that the commission to which Mr. Taylor was elected is a creature of one of the local municipalities. We, of course, have no jurisdiction over the municipalities, and we would certainly have no jurisdiction over the creature of that municipality. I cannot conceive of a conflict of interest that would arise between that commission and us.

When the matter was discussed as to whether Mr. Taylor should run, and he spoke me, I looked at the Public Service Act and found that it states:

"11. A crown employee, other than a deputy minister or any other crown employee in a position or classification designated in the regulations, may be a candidate for election to any elective municipal office, including a member or trustee of an elementary or secondary school board"—etc. It goes on to other things—"or may serve in such office or actively work in support of a candidate for such office if,

"(a) the candidacy, service or activity does not interfere with the performance of his duties as a crown employee;

"(b) the candidacy, service or activity does not conflict with the interests of the crown; and

"(c) the candidacy, service or activity is not in affiliation with or sponsored by a provincial or federal political party."

When I was asked if it would be suitable for Mr. Taylor to run, I reviewed the act and could see no conflict. Certainly the individual was not a candidate for any political party, there was no conflict in his working hours and it created no conflict in his duties in my office. Therefore, I felt that Mr. Taylor had the same rights as any other citizen. I indicated that he had complied with the Public Service Act, and for this reason I did not refuse him leave to run.

The third item that has been discussed in the press was the question of raises. It was suggested that my daughter, Mrs. Malouf, was one of very few people who received a raise this year in the directorate in which she is employed.

I think you should know how raises are handled in my office. The supervisor or director of the person involved, when he decides that a person is entitled to a raise, makes representation to Mr. McArdle, the executive director. They discuss the matter and decide whether the person should receive a raise. I am notified only



after they have agreed on the proper raise and that a raise should be given.

I checked upon reading this story and find as follows: At the respective time there were 21 persons in the legal directorate. I should point out these are not all lawyers. There are six lawyers in the legal directorate; the rest are either hearing officers or researchers. Of these 21 employees, 10 received raises. In addition thereto we have six articling law students in the department, and they received raises. So clearly this was not a case where one of a few people received a raise.

Indeed, I well remember when my executive director gave me the list of people he was recommending for a raise. I went over the list and when I came to the name of Mrs. Malouf I said, "Are you sure?" He said: "Yes. I have double-checked it with her direct supervisor and he insisted that she is entitled to the raise." I said, "Well, if you are sure, because it could cause some comment if she is not entitled to it," and he assured me she was. The suggestion that she was one of a few people who received a raise is just not true.

**10 a.m.**

Another item has been the question of my trips in last year's budget. The trip to the Pacific that I took last January, which has been the subject of newspaper comment, was at a cost of \$10,922 and covered a period of 30 days.

I was appointed to the consultative committee of the International Ombudsman Institute in 1980. This committee has the responsibilities of arranging the next International Ombudsman Conference, which is to be held in Stockholm in 1984. The chairman of that committee was Sir Moti Tikaram, the Ombudsman for Fiji. The meeting of this committee was originally scheduled to be held in Fiji in September 1981. Unfortunately, because of the death of his wife, the meeting was cancelled and was held in January of this year. I say "unfortunately" for many reasons. One was the death; another was that in February the heat in Fiji is intolerable. Members of this committee from all over the world were attending. I had scheduled my trip and had budgeted for it.

Some months before I was to go it was suggested that the Office of the Ombudsman be the area to handle complaints dealing with freedom of information. The Provincial Secretary for Justice (Mr. Sterling) at that time was dealing with the pending legislation, and in a speech he made that suggestion. There were

numerous comments and references to this in the press, and as a result I began to consider the question of what would be involved in the Ombudsman's office if we should be so appointed.

I was aware of the fact that Australia and New Zealand had recently passed legislation dealing with freedom of information and that both countries had appointed their Ombudsman as the person to handle complaints. I was also aware that a number of the individuals whom I would be meeting in Fiji had freedom of information as part of their office duties in their respective countries. They included Mr. Herman Doi of Hawaii and several others.

For this reason I determined that I should discuss the question of freedom of information and how to handle the matter when I met with these people. I contacted both the Justice secretary and the chairman of the select committee on the Ombudsman, informing them that I was going to the Pacific and that I would seek whatever information I could acquire while there. I then sent a memorandum to Mr. McArdle, my executive director, advising him that I should change my trip, not just going to Fiji but taking in as well the office in Hawaii and the offices in Australia and New Zealand. I also advised that I felt he should come along because he, as executive director, would have staffing problems and logistics problems in arranging to handle freedom of information complaints.

That is the reason I went to the Pacific. The Board of Internal Economy, which approves our budget, was aware of the fact that I was going to Fiji. It had been included in our budget, and I have given you both the reason for and the cost of my trip.

The question of nepotism has been greatly discussed in the press also. When I took over the office of Ombudsman, I unfortunately did not know a single employee in the office. One of the first questions asked of me was whom did I wish to have as my administrative assistant and as my executive assistant. Both of these positions were vacated when Mr. Maloney stepped down. I inquired and was told that it was customary for the Ombudsman to choose his own candidates to fill those two positions.

It was also pointed out to me that section 8 of our act reads as follows: "(1) Subject to the approval of the Lieutenant Governor in Council, the Ombudsman may employ such officers and other employees as the Ombudsman considers necessary for the efficient operation of his office and may determine their salary and

remuneration and terms and conditions of employment."

After considering the matter for a week or two, my wife's nephew, Mr. Mark Nantais, who was working for the Ministry of Natural Resources and possessed the necessary qualifications, came to mind. I knew that he was a young man full of energy and I knew he was a man I could work with. I contacted him and asked him if he would be interested in the job. After considering the matter, he agreed. That is how Mr. Nantais was hired, and he has been with the office ever since. In my opinion he has performed exceedingly well and has done a very valuable job for the office.

Some three months after I was in the office, my daughter informed me she had been told by someone she knew in the office that the receptionist was leaving. She asked me if I had any objection to her applying for the job. I considered the matter and decided that I did not see how I could refuse her the opportunity to apply for the job if she wished to do so. In retrospect perhaps it would have been better if I had not done so; however, it is easy to look back with hindsight and say that you should not have done this. At the time I saw no difficulty.

She applied as a normal applicant. I recently checked with the personnel director, who advised me that she interviewed Mrs. Malouf along with some other people and determined that Mrs. Malouf had the best qualifications; therefore, she was hired. It was the lowest-paid job in the office, and I did not give it much concern at the time.

Gentlemen, if that is nepotism, then I guess it is nepotism. However, my only regret at this stage is the difficulties that it has placed these two young people in as a result of the press reports. Shortly after my daughter took the job, the matter was covered in the *Globe and Mail*, in the Queen's Park column, as a matter of fact. It was a short item. No comments or criticisms were implied. However, it is within the last six months that this matter has apparently assumed important overtones. I can only say that I am satisfied that both of these parties have done an excellent job working for the office.

More recently, Mrs. Malouf applied for the posted position as a researcher and was not appointed to that position. Subsequently, she, along with two other employees, applied for the posted position of hearing officer. She won the competition. It was a unanimous decision by the three individuals who interviewed her.

The next item dealt with, which I felt you should be advised of, was trips I have taken this year. I attended the American Ombudsman Convention which was held in Des Moines, Iowa, and gave a paper. I attended the Canadian Ombudsman Conference in Newfoundland and also gave a paper. I attended at Zurich, which I have already referred to. These are the only conference trips which I have attended this year.

The costs of these trips are as follows: St. John's, Newfoundland, including air fare, \$1,591; Zurich, Switzerland, \$1,950, all hotel bills and meals paid by the International Ombudsman Institute; the American Ombudsman Conference cost was \$394. The air fare was approximately \$500, so I decided it was much less expensive to drive. The sum total of these expenses: air fares, \$2,162; accommodation, \$916; meals \$857; for a grand total this fiscal year of \$3,935.

Because of certain allegations that my office deals with complaints too slowly, I checked in the offices at which I attended during my trips and found no office which exceeded the speed with which we handle cases. Indeed, I did not find any office that equalled the speed with which we handle cases in our office.

The main purpose for which we are here today is the review of our estimates. I am sure you would be pleased to know that I have already been before the Board of Internal Economy to get our supplementary estimates approved, and they have been approved.

The increases in the cost of living allowance to our employees this year totalled approximately \$309,000. However, because of savings we have effected in our operations, we requested only \$96,000, so that we have returned to the taxpayers of Ontario some \$213,000 out of this year's estimates.

We now have more investigators but fewer overall staff due to the streamlining of our procedures and the introduction of word processing equipment. Fewer people are turning out more work. Another example of our economic moves has been our relocation in the new quarters, situated at Queen's Park Avenue at the corner of Bloor and Avenue Road.

When I came into the office, I immediately began to ask how long our lease ran, because I felt we were paying a substantial sum of money for rent. I found we had one year remaining on our lease and that the rents were projected to increase drastically in the downtown core. Imme-

diately, I started looking for alternative accommodation.

I was extremely fortunate to locate the old Lillian Massey building, which Victoria College and the University of Toronto were prepared to rent. We were eventually able to rent these quarters, which were completely renovated by Victoria College at an approximate cost of \$2.5 million. Our rent is \$9.70 a square foot for the first five years and \$11.70 for the next five years.

If we compare, over a 10-year period, our present location with our former location and the actual intended rent increases at our former location, we estimate a saving of well over \$4 million, or some \$400,000 a year, by locating in our new premises.

One additional matter upon which I would like to comment before I terminate my opening statement is that if you take our budget of today and subtract from it the cost of living allowance increases which we have given our staff over the last four years, certain dramatic results show themselves.

Our budget for this year, as the approved estimates indicate, is \$5,220,000. The total cost of living allowances over the last four years amounted to \$1,070,913. If you subtract this amount of \$1,070,913 from our current estimate of \$5,220,000, you come up with a net budget figure of \$4,149,097.

Our net budget figure for fiscal 1979-80, my first year as Ombudsman, was \$4,019,015, indicating that our cost of operation has increased by only \$130,087 over these four years, exclusive of cost of living allowance increases. I must point out also that we have no control whatsoever over the amount allocated to cost of living allowance increases. This figure is a set amount established by the government each year.

Further, if you take into consideration the consumer price index increase over the same four-year period, we are operating on substantially fewer real dollars today than we were four years ago.

Thank you for your attention, gentlemen.

10:10 a.m.

**Mr. Chairman:** Thank you, Mr. Morand. I believe we have one or two questions that might be asked of you.

On vote 1201, Office of the Ombudsman program; item 1, the Ombudsman:

**Mr. Bradley:** Mr. Chairman, I find the report very interesting and we will no doubt want to follow up further the comments of the Ombudsman in that report, but I have some questions on

two specific items that I would like to deal with. They are related to the Re-Mor and Argosy investigations.

As the Ombudsman likely would be aware, we had contact with the Minister of Consumer and Commercial Relations (Mr. Elgie) on this matter through questions that I asked in the House and in this committee last week. It was reported by the minister at that time that the Ombudsman would not be able to release the report. That is the report I want to deal with.

The first question I have about it is, do you have the right to release that report to this committee? Let us say that if I were to ask you today to release that report to the committee, my question is, do you have the right to do that?

**Hon. Mr. Morand:** Mr. Chairman, first of all, I should make it quite clear that there is no report at this stage. Under our act, when we get a complaint we must first of all give notice that we are going to investigate that. We do that under subsection 19(1) of our act.

After we investigate, and if we determine that there may be some conclusion that we can come to that is adverse to the people involved, we must then give them a notice setting out the facts upon which we rely, the adverse conclusions that we might come to and the recommendation that we might make. They are then given the opportunity of replying to that letter, which we call a 19(3) letter because it is under subsection 19(3) of our act.

That letter, in the Re-Mor case, went out, and there have been some discussions between myself and the deputy minister involved.

**Mr. Bradley:** That is what I would like to explore, if I can. Excuse me for interrupting. Just to go back a step, that answers my question that you are not able to provide that to this committee. I think we understood that. We dealt with the minister about providing it.

Would you recall when that complaint to you was first made by those investors or those depositors?

**Hon. Mr. Morand:** I do not remember the date, but I can get it.

**Mr. Bradley:** Generally speaking, when would you say that probably was? Was it 1981?

**Hon. Mr. Morand:** Probably, yes.

**Mr. Swart:** Could I ask on this matter of the legality or the privacy of this report? Or are you going to pursue it further, Mr. Bradley? I do not want to interrupt you if that is the case.



**Mr. Bradley:** Yes, I am going to pursue that now.

**Mr. Swart:** The privacy?

**Mr. Bradley:** Yes.

You say, Mr. Morand, it was probably some time in 1981. Okay. Did you have immediate access to all the relevant government documents related to the Re-Mor matter? You will recall that the standing committee on administration of justice forced this government to turn over the documents to the committee, under lock and key and guarded by the Ontario Provincial Police. Did you have access to those documents?

**Hon. Mr. Morand:** Not immediately, because they were not available. But it was for no long period of time that we were unable to investigate.

**Mr. Bradley:** You did have access to them eventually?

**Hon. Mr. Morand:** Eventually, yes.

**Mr. Bradley:** And all of the documents you wanted to have were made available to you?

**Hon. Mr. Morand:** Yes.

**Mr. Bradley:** How many people were assigned to work on this particular case?

**Hon. Mr. Morand:** At present, there are two people involved in it. The first one was Philip Martin, who was one of our best investigators. He unfortunately left us to take the Deputy Ombudsman's job in Trinidad and Tobago. We then had to turn it over to two other people. One is Paula Boothby and the other is Gary Giuliani, assistant director.

**Mr. Bradley:** I see. When was the interim report completed? We read about that in the newspapers. The only way I found out about it was in the newspaper, so I am asking when the interim report that you have to yourself was completed, and when the letter was actually directed to the minister.

**Hon. Mr. Morand:** I believe it was in June this year.

**Mr. Bradley:** It was completed in June, and it was sent to the Ministry of Consumer and Commercial Relations. Has the ministry replied formally to your letter yet?

**Hon. Mr. Morand:** Not formally. They discussed some of the contents of our letter. I understand that they are preparing a letter which will reply in detail to our letter. I understand they do not agree with some of our factual statements—I am not sure yet which ones—I think one or two. From the indication given to

me, I do not think they are material changes or that they materially affect our investigation.

I do not know what that reply is going to say. I hope it is going to be a complete reply and that the matter will be resolved, but until I get that letter and that reply I do not know.

I spoke to the deputy minister twice in the last two weeks and he said that due to the pressure of other business—there are some apartment problems around the community today, and I guess he has been pretty busy on that. The last time I talked to him he said he hoped to have it to me next week or certainly the week after.

**Mr. Bradley:** Is it normal for a minister or ministry to take that long to answer your letter?

**Hon. Mr. Morand:** Sometimes they do on major matters. Sometimes they come back very quickly. When we write to them, we say, "We would appreciate a reply within three weeks." We sometimes get a reply within three weeks; we sometimes do not get a reply within three weeks.

**Mr. Bradley:** This would be over three months. Have you been impatient about not receiving a formal reply?

**Hon. Mr. Morand:** I have called several times and my office has followed it up several times. It is not a minor matter; it is a thing that I imagine they are spending some time on.

**Mr. Bradley:** That we can all agree on. They are spending some time on it.

**Hon. Mr. Morand:** I am anxious to get the reply and I am hoping that I will get it shortly.

**Mr. Bradley:** I recognize that timing can be a problem. How long are you prepared to wait before you start either publicly becoming annoyed or start complaining to someone—I don't know who you can complain to; the Premier (Mr. Davis) perhaps—about not getting a formal reply? How good is your patience in this matter?

**Hon. Mr. Morand:** It depends a great deal on the subject matter involved. If you feel that you might be successful, you are a little more patient than you are if you feel that you are not going to be successful.

Certainly on occasion I have called up a ministry and asked to see the minister and said, "I want to talk to you about this case," and got some pretty quick action. I have gone to them and talked to them, which I have a right to do under my act.

My next step, if I lose patience, is to turn out a report under section 22 of our act and send a copy of that report to the Premier and eventu-

ally it is put in our annual report. If it is a matter of interest and it is a matter of a recommendation which has been turned down and which we are pushing, it eventually turns up in our report and is discussed at the select committee. I should point out I have no right under my act, nor I am allowed, to make that report public.

**Mr. Bradley:** I appreciate the fact that you cannot, but can the minister, now that the report or the letter has gone to the minister?

**Hon. Mr. Morand:** I might say that I have asked that that be changed under the act, that I be given the power to make public certain reports.

**Mr. Bradley:** I think that is excellent. I think that is the process that should be followed, and this specific case illustrates why that is so. Since you do not have the right to release that report under the legislation as it exists, does the minister have the right, or would you object to the minister releasing that report to this committee?

**Hon. Mr. Morand:** I want to make clear that it is not a report in this case.

**Mr. Bradley:** Letter, I am sorry.

**Hon. Mr. Morand:** When it becomes a report.

**Mr. Bradley:** A letter, including a recommendation.

10:20 a.m.

**Hon. Mr. Morand:** I have not reached a conclusion yet; that is, this is what we call a tentative conclusion. He may change my mind. Sometimes they produce evidence after we send one of these letters that does change our minds, some evidence that we did not have available when we did the search. Of course, we cannot disclose our tentative report. I suppose the minister could if he wished to. Certainly with our final report, which goes to the ministry, the board or the agency involved, and the complainant, either of them has the right to disclose the final report, even though I do not.

**Mr. Bradley:** I want to be clear on this. In this case, you do not object to the minister himself, if he sees fit, releasing the contents of the letter from you to the minister with that recommendation in it.

**Hon. Mr. Morand:** That is up to him.

**Mr. Bradley:** That is up to him and you would not object to it. I will not be unfair enough to ask you to comment, but the reason I say that is that last week, in my view, and it is a partisan point of view I suppose, the minister was hiding behind

the Ombudsman Act not to present this letter to the committee.

I said at the time, and I think other members agreed, that you do not have the right under the legislation now to release that. Our point was that the minister does. The reason I asked you the question, "Do you object?" is because now we bounce the ball back into the minister's court and say, "The Ombudsman says he does not object, so it is entirely up to you to release it or not." I am pleased to clarify that.

One very good use of the Ombudsman's office, if I may say so, is the opportunity for the people in the Re-Mor case to be able to bring this matter to your attention because the reason we in this committee are concerned, and I am sure all members share this concern, is that these people have been waiting for about two and a half years if one looks at the total—at least two years—for some kind of resolution of their problems and some kind of compensation, which we have recommended.

I have a further question on this. I know the member for Welland-Thorold (Mr. Swart) would like a supplementary on the Re-Mor aspect and I have some questions on Argosy as well. The further pursuit is this: How does your report affect court cases? Can your report be used in court cases?

**Hon. Mr. Morand:** It cannot be used in court cases. It is not admissible in evidence at all. There is a specific exclusion in the act.

**Mr. Bradley:** That is a very interesting fact. Rather than ask you to comment politically, let me say that I understood from the minister last week that one of the great concerns was that your report was somehow going to affect court cases. You are telling this committee your report cannot be used in court cases.

**Hon. Mr. Morand:** It cannot be used. It has been a matter of discussion in our office from a purely interest point of view because, as all members of Parliament know, the question of matters before the court is a matter which always causes concern. The Ombudsman's office is in some respects like a court but much, much different from a court. We operate sort of one step beyond that procedure.

We do not, of course, wish to get into fights with the courts. It does not behoove anybody and we are subject to orders of the court the same as anybody else. We try to the best of our ability never to interfere with court proceedings, but the answer to your question is quite

clear. No, our reports are not admissible in a court of law.

**Mr. Bradley:** I want to pursue some matters with you on Argosy, along the same line, but Mr. Swart did want a supplementary. Did you have a further comment?

**Hon. Mr. Morand:** One of the problems that has been given to us or has been told to us is, "Your report is not admissible in a court of law, but it may affect the jury." Of course, that is true.

**Mr. Bradley:** I guess a lot of factors can affect a jury.

**Mr. Swart:** I have two or three brief supplementaries. With regard to the submission you made to the minister, whatever you call it, a letter or report, I understand it is a fairly substantial submission. I think the minister stated last week that it covers 11 pages.

**Hon. Mr. Morand:** You know more than I do. I was not sure how many pages were in it.

**Mr. Swart:** He said five and then he was corrected by his deputy and he said 11. It is a fairly substantive, I will use the term, "report."

**Mr. Chairman:** I think we have agreed it was a letter, have we not, Mr. Swart?

**Mr. Swart:** I am not sure. I do not think that really matters, Mr. Chairman. It would have tentative findings in it and tentative recommendations, asking him to reply to those. Is that correct?

**Hon. Mr. Morand:** That is fair.

**Mr. Swart:** If his reply does not refute it, that becomes a basis for your final report, I presume, so to the best of your knowledge you have done your investigation and you have made this report and submitted to him and asked him for his comments on it or right to refute any of it?

**Hon. Mr. Morand:** Unless there is something they bring up which is material, which might change our minds, then that will be the final report.

**Mr. Swart:** Yes. I just wanted to make sure it is not something submitted halfway through your investigation. It is really—

**Hon. Mr. Morand:** It is what we call our tentative conclusions and tentative recommendations subject to—

**Mr. Swart:** Tentative conclusions and tentative recommendations, subject only to what the minister may say.

**Hon. Mr. Morand:** Yes.

**Mr. Swart:** That is what I wanted to bring out.

I understood you to say you have no objection to him releasing the report?

**Hon. Mr. Morand:** That is up to him. I saw that in the newspaper and, out of curiosity, I inquired. This is what I was told, and I do not know whether it is accurate or not—you gentlemen may have been there, and I was not. What the minister said was that I had the privilege of confidentiality, and because it was at the stage it was, he should have the privilege of confidentiality at that time, too. That may not be a fair statement. I do not know. I was not there.

**Mr. Swart:** Under subsection 19(2) you conduct your investigation in private.

**Hon. Mr. Morand:** Yes.

**Mr. Swart:** I do not read that the act—and I presume you read it the same way—prohibits him from making public the document. If it did, I presume you would object if he did make it public, if you felt the act prohibited.

**Hon. Mr. Morand:** I am trying as far as possible to stay out of the differences of opinion. Let's take it out in a completely different context, in a completely different case, not this case but some minor one. From our office point of view, it probably would be better if things did not become public until we got all of the information from the ministry, so that our final report was one that we knew was 100 per cent right and we could stand behind it.

That is purely a personal viewpoint, that we do not want to be unfair in our interim report if there is any other information which we have overlooked or something and which we would like to correct in our final report. But that does not change my answer to the previous questions at all.

**Mr. Swart:** What you are saying in effect is that it is up to the discretion of the minister whether he wants to release those tentative conclusions and recommendations?

**Hon. Mr. Morand:** That is right.

**Mr. Swart:** In your opinion, he did not break any faith with you or did not contravene the act in the reports which he made to the press indicating that there were recommendations that there should be a settlement?

**Hon. Mr. Morand:** No, he did not.

**Mr. Swart:** If he had made those statements and had given details to this committee, or even released the report, you would not have felt that he was breaking faith with you?



**Hon. Mr. Morand:** I am being technical when I object to the word "report." Tentative conclusions.

**Mr. Swart:** I am sorry. I will say, if he had released the details of the submission with regard to the findings and with regard to the tentative recommendations, you would not have felt that he was breaking faith with you?

**Hon. Mr. Morand:** No, as I read the act, that is his privilege.

**Mr. Swart:** That is his prerogative, and he would not even be breaking the act if he had released that information to this committee?

**Hon. Mr. Morand:** That is the way I read the act.

**Mr. Swart:** I am glad to have that information because he indicated the opposite, that he would be breaking the act if he did that.

I just want to supplement the question of the member for St. Catharines (Mr. Bradley) about the timing. You stated that you submitted this letter or made this submission in writing to the minister in June, and that it is customary—and you did in this letter—to ask for a report within three weeks.

**Hon. Mr. Morand:** I do not have that letter with me. In this case, we may have given a longer time because of the complexity and the size of it, but I can say that is the usual time we give.

**Mr. Swart:** Could you tell us when you heard back from the minister on this? Did you hear within three weeks, or was it two months?

**Hon. Mr. Morand:** I usually do not hear from the minister.

**Mr. Swart:** Or from the ministry.

**Hon. Mr. Morand:** First, I got a call from the deputy minister, saying it was a very interesting and a very lengthy matter, and that they wanted extra time to answer. I said, "Yes, I can understand," and gave extra time.

I have to be careful here now, Mr. Swart. I am being as open as I can, but I do not want to get into discussions of my investigation and so on and so forth because any information which comes to me is, as you know, secret. I can say we have had phone discussions and personal discussions since that time, as recently as Monday of this week. As I say, I hope to have an answer in writing for my report within two weeks. I may be being optimistic, but one of the reasons I have not turned out a final report is that I have hopes it would be one that would be successful.

10:30 a.m.

**Mr. Swart:** My question was not for any of the details of the report. I appreciate your condition. I did want to know about the timing. How long was it before you had that call from the deputy minister from the time you made this submission, and was the follow-up expeditious? Five months is a long time.

**Hon. Mr. Morand:** It is a long time, yes. Most of the matters have been going on for a couple of years.

**Mr. Swart:** We have an obligation as members of this committee to determine if that delay was—

**Hon. Mr. Morand:** I am concerned because I believe two of the people who were involved in it are already dead—

**Mr. Swart:** Yes, we are concerned too.

**Hon. Mr. Morand:**—and there are others who are getting quite elderly. I am concerned that the matter should be resolved fairly soon.

**Mr. Swart:** You do not want to give any specific information about how long it was before he contacted—

**Hon. Mr. Morand:** The first time after my letter? It was shortly after.

**Mr. Swart:** How long was it before you first met with the ministry?

**Hon. Mr. Morand:** I would have to have my file here to check back as to just when. My staff carried on some discussions with the ministry, called up and so forth. But I do not have that at my fingertips. Certainly, and again I am speaking from memory, I have talked to the deputy minister on three or four occasions.

**Mr. Bradley:** Following exactly the same type of sequence here with Argosy, which is a similar situation, the first thing I want to confirm with the Ombudsman, if I may, is that he indeed did receive a complaint on Argosy. Is that correct?

**Hon. Mr. Morand:** Yes.

**Mr. Bradley:** When was that complaint filed, to your recollection?

**Hon. Mr. Morand:** I believe it was June or July of 1980. Again, I am talking from memory. Nineteen eighty-one? I am not sure, quite frankly. I will check and get the exact date. Dr. Shulman had it in his column yesterday. The date at the time he first came to us was accurate. He got that from our office. We then immediately tried to investigate. We sent out a subsection 19(1) letter setting out what we were investigating. We were refused access to the files.

**Mr. Bradley:** By whom?

**Hon. Mr. Morand:** By the deputy crown attorney, who said the matter was being investigated for the purpose of laying charges. We kept on the matter and watched what was happening. The Attorney General (Mr. McMurtry) has a right to specify that we cannot get the files from his collection, if he wishes to do so. We did not make an issue of it at that time, because we felt it was of interest to everyone that, if there were charges to be laid, they be laid. I am quite satisfied that had we made an issue of it, we would have been formally refused those files.

When the charges were laid, which I believe was on November 3 of this year—

**Mr. Bradley:** Which date? I am sorry.

**Hon. Mr. Morand:** I think it was November 3, I am not sure. Again, I am speaking from memory on this matter.

Our office got a call from Dr. Shulman the same day. He seemed to be upset that we had not asked for the files that day, although we did ask for the files within a couple of days. Again, we were refused the files. As a result of that, my staff consulted with me on the matter and I got in touch with the deputy crown attorney who was in charge of the prosecution and said I would like the files. He said, "We are still considering laying charges and we do not wish to give you the files."

We had a discussion and it was agreed that I would write him a letter, which is in the process, specifying exactly what we want from those files. I want back from him a letter telling me that either I can have it or I cannot have it. If the matter is that I cannot have it, then there is one procedure that I can take: I can attempt to subpoena them.

The Attorney General, himself, can then still refuse to give them to me. That has never happened yet in our office. I do not want to get to that stage if I can help it. At the present time, I am hoping that when he gets our detailed letter as to just exactly what we need to carry on our investigation, he may see fit to release to us the files that we need. If he does not, we will have to determine whether we take further action at that stage.

**Mr. Bradley:** Do you feel that this procedure that you must follow and the fact that these files can be refused to you, confines you in your ability to carry out your responsibility as the Ombudsman of Ontario?

**Hon. Mr. Morand:** Certainly, it slows me down from investigating. I think that is a

question for you, gentlemen, rather than for me to answer.

The question is the conflicting interest between the necessity to prosecute in the right cases, the necessity to lay charges and the necessity for the crown to have access to the files and use the files for its research purposes and so forth, and the access of the Ombudsman to investigate to see whether a complainant has a legitimate complaint or not. There are two conflicting interests there and it is a question I would think for legislators to determine as to which interest should take priority.

**Mr. Bradley:** You will be interested to know, sir, that when the House was in a minority position, a majority of members of the justice committee came to the conclusion in the Re-Mor/Astra matter that there was no reason, simply because a criminal investigation is going on and court cases might be pending, to prohibit the elected representatives in the Legislative Assembly from having access on a very confidential basis to the files.

One would assume that those same members of the committee who consider that to be the case, might well wish to see you have access on a very confidential basis, as you always do, to the files to carry out your responsibilities. As the Ombudsman has indicated to this committee, in the Re-Mor affair, for instance—and who knows if this is the case in the Argosy affair—two people have died, others are elderly and some are ill. I suppose the lawyers on the committee could tell us the famous cliché, "Justice delayed is . . ." what?

**Hon. Mr. Morand:** Justice denied.

**Mr. Bradley:** "Justice denied." Specifically when you are dealing with people who, to be quite frank, might not be around in a few years, that is even more important.

I have drawn a conclusion from both the Re-Mor affair and the Argosy affair and, as I have indicated to you, I think with your investigation you have a major role to play here. I am glad that you have had at least some success in the Re-Mor situation. I hope you have success, and I would support you, in the Argosy affair.

May I ask you this question? In any of these cases, have you given any thought to approaching the opposition parties for information or views, given the expertise that was developed during the course of the committee hearings, for instance, on the Re-Mor matter? First of all, we have the members who sat on that committee. We became very immersed in it. The member

for Etobicoke (Mr. Philip) was the chairman of the justice committee at the time. Others here have served on it.

Second, the research staffs of the Liberal, New Democratic and Progressive Conservative parties all developed a good deal of expertise. They lived the Re-Mor/Astra affair inside out. Have you ever given consideration to approaching either the members or our research staffs when you are running into difficulties?

**Hon. Mr. Morand:** We certainly have transcripts of the evidence that was given and that has been gone over by our investigators.

I have always been a bit leery of getting involved in the political process.

**Mr. Bradley:** I understand that.

10:40 a.m.

**Hon. Mr. Morand:** I think it could be dangerous to the Office of the Ombudsman if it becomes involved. I would see no harm in an investigator asking somebody who has done previous investigation for any information he might have involving the matter that would help us. I have not specifically addressed my mind to that question but I will take it up.

**Mr. Bradley:** I am pleased to hear that, because what I think comes out of that for all members of the committee is that we want you to have the kind of investigative powers you need. But it seems to me that in the Argosy affair your hands are tied by the same kind of argument with which they tried to tie our committee's hands at that time. I guess a sub judice argument is used there or a criminal investigations argument.

Second, the Re-Mor affair is tied by the fact the ministry is taking so very long to reply to a recommendation which you have described as being your "tentative conclusions and tentative recommendations." One would assume that, as members of this committee and of the Legislature, we would continue to encourage the minister to respond in a formal fashion to that which you have brought to his attention.

I think the member for Hamilton East (Mr. Mackenzie) had a supplementary question.

**Mr. Mackenzie:** I have one brief supplementary, Mr. Chairman, dealing with the questioning that has been going on here. My colleague the member for St. Catharines mentioned the "Justice delayed is justice denied" argument. We certainly have had that, and an awful lot of delays in court problems in the Hamilton area.

What I am really concerned with is this: You have been subject to a fair amount of criticism

over time frames in every bit of your business. Here we have a letter you sent to the minister in the Re-Mor case. You have not had a formal response in five months and he has been using you as part of his defence in the House.

An Argosy complaint was launched in 1980 or 1981, whatever the year was, and you are still being denied access to the files, which literally kills your ability to carry out any investigation as to whether or not there has been an injustice done. That is almost impossible for me to accept, even given the fact the crown may be considering charges.

Have you yourself raised this issue with the ministries? What kinds of arguments are you making in terms of, "Am I going to have to wait two or three years even to get a look at the records that are there?" How in blazes are you going to conduct a successful investigation if we have this kind of a time frame problem? It is one, two or three years and you cannot get the records in the Argosy case. You write to the Minister of Consumer and Commercial Relations on the Re-Mor deal with specifics and with an 11-page letter. Five months later you have not had a response. Are you pursuing this particular angle in terms of the time?

**Hon. Mr. Morand:** Yes, I am as a matter of fact. In so far as Re-Mor is concerned, as I say, we have the right to turn out a final report. It is a judgement call in some of these cases whether you turn out your final report instead of waiting. I have to be careful what I say. I have been under the impression we might resolve the Re-Mor matter reasonably quickly. That is why I have been waiting for this letter because I thought it would resolve the problem.

On the other matter, it has been a source of concern that we could not get into the files. At this stage, it is not the political process that is denying me those files; it is the court process. Again, I have to consider, do I get into a battle with the courts or on the conflicting interests? Yes, it disturbs me we have not been able to get at those files and, yes, because a group of charges certainly have been laid, I immediately said, "Now we want the files."

**Mr. Mackenzie:** Who are you talking to when you say that you are pursuing them? Is it just the ministries involved? Have you discussed it with the Premier? What kind of steps have you taken to try to put some pressure on to avoid this kind of delayed time frame?

**Hon. Mr. Morand:** In this case, the senior crown prosecutor was prosecuting this matter.



**Mr. Mackenzie:** Did you consider getting into the political arena to raise the matter with this committee or with the Premier?

**Hon. Mr. Morand:** No. I do not think the Ombudsman should get into the political arena.

**Mr. Mackenzie:** I understand what you are saying, but I wonder, at what point are some time frames needed for you to carry out your responsibilities?

**Hon. Mr. Morand:** I think it is up to you gentlemen to push that matter and determine that matter. If the Ombudsman starts to get into the political process, I think it can destroy the office.

**Mr. Swart:** I have a supplementary question. Are you satisfied that the crown prosecutor's reason for refusing to provide the material was justified? Did you investigate in some depth whether or not he was, in fact, delaying the release of those documents because the whole thing might be embarrassing.

**Hon. Mr. Morand:** I am satisfied it was not that. One of the crown prosecutors said, "I cannot prepare my case if you are pawing through all these files." That is the reason I have not taken more drastic action. It is not a political decision; it is a court decision by the man prosecuting the case. He did not wish to release them. For that reason I did not take more substantial action. Frankly, I myself see no harm in investigating the files at the same time. I can see it might be inconvenient to the crown prosecutor on the case, and that at certain stages he would not want anyone to look at those files before he had a chance to look at them. Again, it is a situation you have to look at. Certainly he has the right to deny us the files, if it comes to an issue.

**Mr. Bradley:** We found the photocopying machine particularly useful in the justice committee.

**Hon. Mr. Morand:** Yes, I might. We have had a problem with the photocopying machine in our office just recently.

**Mr. Swart:** We have found out, in the Re-Mor issue over the years, that the court process and the Ombudsman's process can proceed in a parallel way. They are not contradictory. In fact it is desirable, because there are two very separate issues here: One is the negligence of the government on which the Ombudsman might decide, after investigation, there should be a voluntary settlement by the government.

The other is a court case, usually under the Criminal Code.

Have you recommended any procedures—the member for St. Catharines mentioned this—in these cases where there is prima facie evidence that you should do an investigation? Can you set up a procedure so that the files are available? Can you recommend a procedure to the Legislature or to this committee in order that investigations which you feel should proceed are not held up, as the Argosy one has been, for a period of—what is it?—18 months now?

**Hon. Mr. Morand:** Yes.

**Mr. Swart:** If they are not held up, we can prevent this sort of thing happening in the future.

**Hon. Mr. Morand:** What we have done is to keep after them, to try to get the files, try to pin them down with, "Can't you give us this, or can't you give us that?" and try to work out these things. There are not too many instances where this does arise, but it has arisen, and it has caused us concern. As I say, we have not made a formal representation that there should be a change in the law or anything of that nature. What we have tried to do is to get as much of the material as we could without making an issue of it, because if we make an issue of it we shall just be refused. So we are trying to get as much of the information as we can as quickly as we can to make our investigations.

**Mr. Swart:** Mr. Chairman, this will be my final question. There are more and more of these instances. In fact, I am informed that this morning charges were laid against Mr. Funston in the Vic Tanny case. That may be another area you will be pursuing and you may run into this block again. Can you recommend a system, whether it is to the Legislative Assembly or to this committee, where all the documents in these instances can be photocopied—I know it is a big job—but can you recommend some system so that you are not delayed in your investigation?

**Hon. Mr. Morand:** We have photocopied extensively; we do that.

**Mr. Swart:** Are they preventing you? Are they saying, "No, you cannot have access to that file to photocopy it"?

**Hon. Mr. Morand:** Yes.

**The Vice-Chairman:** Mr. Haggerty, did you have a supplementary question on this point?

**Mr. Haggerty:** I did. I want to follow up on the thoughts of the other two members. Mr. Morand,

you said you had two staff members working on the Astra/Re-Mor case. Could you tell the committee how many man-hours this would be, how many months of investigation?

10:50 a.m.

**Hon. Mr. Morand:** It has been a long time. I have not computed the man-hours. I do not have that at my fingertips. It could be done.

**Mr. Haggerty:** Is there anybody on your staff who can provide that? Was it three or four months?

**Hon. Mr. Morand:** How long?

**Mr. Haggerty:** Yes. Totally.

**Hon. Mr. Morand:** Philip Martin spent months—exclusively about six months.

**Mr. Haggerty:** Six months?

**Hon. Mr. Morand:** Yes. He did nothing else but that.

**The Vice-Chairman:** The member had the floor and we have had several supplementaries. Have you finished with your supplementary?

**Mr. Haggerty:** I want to follow up on that. Do you feel the two investigators spent six months on this matter?

**Hon. Mr. Morand:** More than that.

**Mr. Haggerty:** More than that. Would it be eight months or a year, or what?

**Hon. Mr. Morand:** It would be at least eight.

**Mr. Haggerty:** If you started to add the area of the Argosy investigation, that would be another year of investigations.

**Hon. Mr. Morand:** I am sorry. I am talking about the total time the investigator spent on it, because since Paula Boothby took over, she has not spent full-time on the investigation. Philip Martin spent six months exclusively doing nothing but that. Then there have been two other people. In addition to that, there are other members of the staff who have been consulted about various things. The legal staff has been consulted.

I thought you were talking about the total number of man-hours. If you are talking about total man-hours, it would be at least eight months and probably more.

**Mr. Haggerty:** In what areas do you send these investigators? Do you go to the registry office, say, and go into the land holdings of these companies that are under review now?

**Hon. Mr. Morand:** If necessary; but it is not always necessary, because we have access to a lot of information. We have had information through the justice committee hearings and

some Ontario Securities Commission hearings. There is a lot of reading to be done in going over this material.

The main thrust of our investigation here is as to whether there is a responsibility upon the government involving the losses of these people. The issue is whether we can do anything for our complainants. Their complaint was that they lost money as a result of maladministration in the office that licensed these people. Our investigation has to home in on that complaint.

**Mr. Haggerty:** In your document sent to the minister responsible, running to some 11 pages, was there any recommendation about the act itself in regard to establishing trust companies and so on in the province or that it should be amended to correct any possible loophole?

**Hon. Mr. Morand:** I would not want to get into that at this stage. I think I would be in trouble with my act if I did.

**Mr. Haggerty:** I am questioning on that point. I do not think that would be an infringement of the act itself. If there is something in the act that should be plugged now, I think all members of the Legislature should be made well aware of it. There is legislation now pending dealing with the securities commission which perhaps we should be looking at.

**Hon. Mr. Morand:** There have been some changes made already. I can tell you that and that we have looked at that issue.

**Mr. Haggerty:** Are you aware that there is a bill now before the Legislature in regard to the Ontario Securities Commission and its functions? Perhaps we could have some of your viewpoints in this area. It might be of some assistance to the members of the Legislature so we can at least plug that hole or provide stiffer penalties so we will not have this same thing turning up every five or six years. We had one—was it Atlantic or a trust company—

**Hon. Mr. Morand:** Atlantic, yes.

**Mr. Haggerty:** I recall the documents that were filed at that time in that investigation; it took years to deal with that matter. I thought we had made changes in the act so it would never be permitted to occur again, but apparently it will happen again unless there is some strong legislation so that members of the public are aware of what they are getting into and so that there are some safeguards.

The other question—

**The Vice-Chairman:** Mr. Haggerty, with respect, you asked for a supplementary. If you

want to get into a long line of questions, I will put you on the list. Mr. Bradley, I understand, has the floor. Is that right?

**Mr. Bradley:** Yes, I have.

**The Vice-Chairman:** If you wish to give up your position to Mr. Haggerty, your colleague, fine. Otherwise, I will ask you to continue and then we can get on with other matters.

**Mr. Van Horne:** Mr. Chairman, if I might interject here, you had allowed a variety of supplementaries and for some time I have had the desire to ask a point of clarification, if that could be considered supplementary.

**The Vice-Chairman:** It certainly could, Mr. Van Horne. As a matter of fact, you are on the list to ask questions. Do you have a point of clarification you wish to ask now?

**Mr. Van Horne:** A point of clarification now, but I have further questions; so leave me on your list.

The clarification I seek is this. Mr. Morand, in the presentation you made to the select committee in September—it was a 62-page statement, and I am not blessed with the most photographic of memories—I am not able, at a quick glance, to find reference to the efforts of your office to investigate what we have been discussing for this past hour. Is there a reference in here to that part of your office activities?

**Hon. Mr. Morand:** To the Re-Mor matter?

**Mr. Van Horne:** Yes.

**Hon. Mr. Morand:** I do not believe so. I do not recollect it.

**Mr. Philip:** Why would you not have shared that with the committee since you—

**The Vice-Chairman:** It was a point of clarification, and we are not going to wander from that. The point has been clarified that it is not in there. Now Mr. Bradley has the floor and, Mr. Philip, you are on the list.

**Mr. Philip:** Mr. Bradley indicated it was a legitimate supplementary, and I only am asking that one question.

**The Vice-Chairman:** Mr. Bradley, you have the floor.

**Mr. Philip:** Maybe Mr. Bradley can ask the question as to why you would not have reported to the Ombudsman committee that you were in the midst of that complicated investigation.

**The Vice-Chairman:** Are you adopting that question, Mr. Bradley, as yours?

**Mr. Bradley:** Yes. Why?

**Hon. Mr. Morand:** Because I am not and have not been, nor has the office been, in the process of discussing matters that were under investigation. I did not mention it today in my opening statement either.

**Mr. Bradley:** I have two final questions then, Mr. Chairman. I do not want to hoard all the time even though supplementaries have been permitted, because members of the committee will want to pursue in much more detail the matters that emerge from this morning's discussions and report. The two questions I have are general and others will want to get in on the very good details of this.

First, do you not believe, when a person goes into public life assuming a position such as yours, that there are sacrifices to be made and that one of those sacrifices would be that members of that person's family cannot, or should not at least, have employment in the same division that person heads?

The second question is, do you not feel it is absolutely necessary, at a time when governments are preaching restraint to all our citizens, for all of our public officials to go only to those events that are absolutely essential and to confine any unnecessary spending to only the very essential items?

They are general questions and I know other members of the committee, Messrs. Philip, Van Horne, Haggerty and others, will want to pursue these matters in greater detail. But I ask those two things in general.

**Hon. Mr. Morand:** I mentioned it in my opening statement, dealing with the question of my daughter. At the time, perhaps in my not being familiar with the public process, I saw nothing wrong with it. I did not consider it a problem that my daughter went to work for the office as a receptionist. I did not consider that it created any conflict or any problem.

**Mr. Bradley:** But there is the appearance, surely.

**Hon. Mr. Morand:** I suppose so; I do not know. I have known and I have been told that there are members of the same families working for the different ministries and so forth; so I do not know that there is. If you tell me there is an appearance of wrongdoing, then there may be, but I did not consider that there was. It was the lowest-paid job in the office, it was the lowest job in the office, and it just did not cross my mind.

**Mr. Bradley:** Mr. Chairman, I am sure you are interested in these kind of things. The reason I



asked that was that I guess all of us in the Legislature at some time or another get a comment from our constituents which goes like this: "All the access to those government jobs"—and they consider the Ombudsman's job government—"is confined to a few people in the know, whether it is for political reasons or because they know somebody who works there." They consider it to be a closed shop, although their tax dollars are going to it.

**11 a.m.**

I am not trying to be harsh or to embarrass you in front of the committee. What I am saying is that, in principle, people seem to be saying, "We do not have this access, and when we see the Ombudsman's daughter or other relatives getting jobs in his office, something stinks." That is the general perception.

**The Vice-Chairman:** Mr. Bradley, would you clarify that? That is pretty strong language you are using, and I do not think you—

**Mr. Bradley:** Yes, it is unfortunate. You are right. I did not mean that when something stinks that—

**The Vice-Chairman:** The reason I ask you to clarify it is that I think you are speaking in general terms. In one area you are probably talking about hiring within the civil service so that it is a closed competition to people outside the civil service; there have been criticisms of that, as you know. I do not know whether you are talking about that area of reform—

**Mr. Bradley:** No.

**The Vice-Chairman:** —or whether you are talking about introductions to jobs by politicians.

**Mr. Bradley:** I am talking about the general perception that for a number of reasons the door is closed. I do not like the words "something stinks." I do not mean it in that way, and I think the Ombudsman knows that. People seem to feel that it is just not right that they do not have access, yet here is the Ombudsman and he has two relatives working in his office. They might be excellent employees, as you have pointed out, but people seem to feel that is just not right. I think they accept the liquor store situation and all that, but they do not feel it is right when you get into the other jobs.

**The Vice-Chairman:** Maybe that is a matter for the Human Rights Code; I do not know.

**Hon. Mr. Morand:** I explained what happened. I do not know whether I can say any more.

I can comment on the question of the trips.

The trip to the Pacific was planned back in 1980 before this kind of question came along. I had joined as a member of the committee. The previous chairman of the select committee had recommended that I tour these offices. The earlier select committee had toured other offices, as had the earlier Ombudsman. Mr. Lawlor, the chairman of the committee, recommended that I tour other offices to find out what I could do to improve our office; and since the inception of the office it has taken part in international Ombudsman affairs.

Quite frankly I thought I was doing something in the interests of the province by taking part in these matters, and I accepted the appointment to this committee. Having accepted the appointment back in 1980, I felt I had to take on and do the job. Some of these trips sound very glamorous, but they certainly are not very glamorous when you are doing them.

**Mr. Bradley:** I guess it is the locale that sounds glamorous.

**Hon. Mr. Morand:** It sounds glamorous, but at that time of the year, I can assure you, in one of the cities—thank God the temperature was down when we got there—it had been 117 two days before we arrived. It was also in the rainy season, and it rained and rained and rained. However, that is neither here nor there.

Because there is only one Ombudsman in Ontario and there is one in each province in Canada, the Conference of Canadian Legislative Ombudsmen—whose members, like everybody else, I guess, like to associate with people who are doing the same job, exchange problems, exchange methods of curing the problems and so forth—is more widespread than most organizations, and for that reason it is probably more worldwide.

Certainly I took part in these things as part of my job rather than as something to do in the way of a trip. On my last trip to Zurich, to give you an example, I left on Sunday evening, stayed up all night, arrived Thanksgiving morning and had to trans-ship at the Amsterdam airport because there was no direct flight. I arrived at the hotel, went to bed and got a few hours' sleep; then I got up and went to a function. From then on I was up at seven every morning and to bed at midnight until Thursday morning. I was up at seven and back in Toronto on Thursday afternoon. That was a pretty exhausting stretch. It was work all the time I was there.

**Mr. Mackenzie:** That won't help your eyes.

**Hon. Mr. Morand:** No, it sure didn't.

**Mr. Mackenzie:** I have one supplementary. When you mentioned the \$10,922 cost of the Fiji trip, was that for the entire group that went over?

**Hon. Mr. Morand:** No, that was my cost. Mr. McArdle also went; his was slightly less.

**Mr. Mackenzie:** Do you have the total cost for the group that went?

**Hon. Mr. Morand:** I can get it for you very quickly.

**Mr. Mackenzie:** Can you get us the figure for the whole group?

**Hon. Mr. Morand:** There were just the two of us. The total cost to the office for the two of us would be less than twice the amount of \$10,900.

**Mr. Bradley:** Mr. Chairman, I will turn the floor over to Mr. Philip, who has been waiting very patiently—

**The Vice-Chairman:** Yes. I have seen him fidgeting. I was not sure whether he wanted to leave the room or whether he was anxious that you complete your questioning.

**Mr. Bradley:** In turning it over to him, I would like to note one thing. Members of the Legislature in this restraint period all turned down an opportunity—I am not saying we are great people—to go to the Commonwealth Parliamentary Conference in Nassau. It was passed around like a hot potato. Nobody wanted to go, because they did not want the public to know that any member of the Legislature would be going there at a time of restraint. I think that is what has to happen.

**The Vice-Chairman:** Thank you for bringing that to the attention of the press. I am sure they will make a note of it.

**Mr. Cooke:** Mr. Chairman, I have one request for additional information; it is a direct supplementary to Mr. Mackenzie's question.

I am not clear from your statement, Mr. Morand, and I was not party to the last select committee discussions, as to any other travels that were taken by any other staff members aside from your trips. In other words, were there any other staff members who went out of the country to other conferences or on other business? Do you have a total figure of what we are talking about for travel costs in either the present fiscal year or the last fiscal year, or both? I would also like to know where those trips were to.

**Hon. Mr. Morand:** I do not have that handy, but I can get it very quickly.

**Mr. Cooke:** I ask because this does not give us the total picture of the travelling of the Ombudsman's staff. Is that correct?

**Hon. Mr. Morand:** No, it does not. Again I would like clarification; are you talking outside of the country?

**Mr. Cooke:** I am talking outside of the country basically, yes.

**Hon. Mr. Morand:** Because inside the country, inside Ontario, we have people travelling all the time.

**Mr. Cooke:** I realize that.

**Hon. Mr. Morand:** You are talking about conference travel.

**Mr. Cooke:** You might get the impression that the only travelling we are interested in is your travelling. But I look at the total budget for the Ombudsman and where other staff members are going. For example, I believe there was another member of your staff who was to go to South Africa, but did not go to South Africa and got another trip in replacement.

**Hon. Mr. Morand:** He did not get another trip in replacement. The South African trip was to be paid for by the International Bar Association. If you are talking about Mr. Goodman, my counsel, yes, he went on another trip outside the province, but that was not in replacement of the other one.

**Mr. Cooke:** That was to Hawaii, I believe.

**Hon. Mr. Morand:** No. That was to New Delhi, India. It was the International Bar Association, Ombudsmen section, of which he is the chairman. That is the only one I can think of outside the country in the past two years.

**Mr. Cooke:** I would find it useful if you could file something with the committee at some point that would give us a total picture of the travels—I am not talking about your travels to Windsor, Sudbury or other areas for regional hearings; I am talking about travelling to conferences and on other business outside of the province.

**Hon. Mr. Morand:** Yes, I can get that.

**The Vice-Chairman:** That leads in, Mr. Philip, to your question.

**Mr. Philip:** Thank you, Mr. Chairman. Mr. Morand, in your report you say on page 2, and I quote: "The office may well rank among the best in the world," and that is attributed to the Ombudsman committee's report, which was just tabled. Is that correct?

**Hon. Mr. Morand:** Yes. The select committee.

**Mr. Philip:** The select committee. It is also a very selective choice of words, Mr. Chairman. I would like to read what the committee did say. It said:

"The Ombudsman is of the opinion that his office ranks as the best such operation in the world. In the committee's opinion this may very well be the case in terms of organization, quality of investigation and quality of staff. However, the fact remains that some people in Ontario who have sought the assistance of the Ombudsman's office do not feel well served in terms of the length of time taken to conduct investigations and to reach conclusions on their complaints."

11:10 a.m.

It goes on further to say: "However, the committee is of the opinion that further steps can and should be taken to decrease the time required to process complaints. Only when that is done will the frustrations that some persons in this province still feel be diminished."

I simply want to put that in the context that I believe the Ombudsman, perhaps inadvertently, may be giving the wrong impression as to what the report actually did say.

**Hon. Mr. Morand:** Where were you reading from, Mr. Philip?

**Mr. Philip:** Page 8 of our report.

**Hon. Mr. Morand:** I was reading at the bottom of the middle paragraph of the page, "The committee shares the Ombudsman's view. . ." and I was reading a sentence at the bottom paragraph, "The office may very well rank among the best in the world." That is a statement of the committee.

**Mr. Philip:** I am sorry but, with the greatest respect, it does not say that, sir. It says, "The Ombudsman is of the opinion that his office ranks as the best. . . in the world."

**Hon. Mr. Morand:** My copy says, "These comments should not be taken by the Ombudsman or his staff as harsh or unfair. The office may very well rank among the best in the world."

**Mr. Philip:** That is precisely what it says: The committee is of the opinion that it may rank as the best in the world; however, there are problems in the Ombudsman's office. And it goes on to spell them out.

On page 2, you also say that "88 per cent have their matter attended to within six months and over 93 per cent have their matter handled within 12 months." Is it not true that about 50

per cent of the complaints are nonjurisdictional and therefore you tell these people that you cannot do anything for them?

**Hon. Mr. Morand:** There are a large number of information requests which require that we find out information and give it to these people. It is true that a lot of these matters are nonjurisdictional. It still takes the time of the office to talk to the people, to respond to them, to tell them their matter is nonjurisdictional and why it is nonjurisdictional. We also tell them who they should contact with their problem.

**Mr. Philip:** I want to come back to that topic a little later on but, before that, I would like to deal with a couple of other matters of interest to me which you dealt with in your report but not to my satisfaction.

I would like to refer to the issue of Mr. Blair Taylor. Mr. Blair Taylor holds what position in your office?

**Hon. Mr. Morand:** He is assistant director in the general investigations branch.

**Mr. Philip:** He is assistant director. And he ran for political office at a municipal level; is that correct?

**Hon. Mr. Morand:** That is what I understand.

**Mr. Philip:** Did you speak to him at the time he announced his candidacy about the possibility that there might be a conflict?

**Hon. Mr. Morand:** Yes. He spoke to me and I reviewed the Public Service Act because I knew of that act. I reviewed a case that was heard by the Public Service Grievance Board, and I was of the view that there was not a conflict and that I could not deprive him of the right of running if he chose to do so.

**Mr. Philip:** Would you agree that the position of a public employee working for a ministry would be different in some way from the quasi-judicial, and I use that term selectively, types of positions that would exist in your office?

**Hon. Mr. Morand:** No, I do not think so, Mr. Philip, to put it that way. Every person has his individual rights as a citizen of the community. We have people in our office who have worked for other ministries. Indeed we have, and have had, people in our office who have worked for political parties. Those people have been very good employees of the office. They have had knowledge of the political process and of particular ministries. Their supervisors are scrupulous to see that where there is a potential conflict, and that could arise in some of the



cases, they are restrained and refrain from investigating those matters.

**Mr. Philip:** You do not distinguish between the role a person in your office would have vis-à-vis his political rights and the role of someone who happened to be a public employee? You do not see that there is any qualitative distinction?

**Hon. Mr. Morand:** Only if there should be a conflict between their duties in my office and their duties in the political office that they run. Yes, certainly at the provincial and federal levels. I see conflict, but at the municipal level I think we have to look at each case.

**Mr. Philip:** You say there would be no conflict in being a hydro commissioner?

**Hon. Mr. Morand:** No.

**Mr. Philip:** I believe in your report somewhere, and I do not have the exact words, you indicate that a hydro commissioner—you may have used the words “municipal office” or “municipal jurisdiction”—is not under your jurisdiction.

**Hon. Mr. Morand:** That is correct.

**Mr. Philip:** You would be the first to admit, of course, that you and Mr. Maloney have asked that it be under your jurisdiction, would you not?

**Hon. Mr. Morand:** I have never formally asked that it be. I have been asked whether I would be in favour of having municipal jurisdiction, and I said “Yes.”

**Mr. Philip:** The answer was “Yes.” Would you also agree that you do have some jurisdiction over Ontario Hydro?

**Hon. Mr. Morand:** Yes.

**Mr. Philip:** Would you agree that at some time there may well be a conflict between the municipal hydro authority and Ontario Hydro?

**Hon. Mr. Morand:** It is possible. We have never had one yet in the office.

**Mr. Philip:** Do you feel there would be any possible conflict in being assistant director of the investigations branch, if there were to be a request for an investigation into the treatment by Ontario Hydro of either a municipal hydro employee or a municipal hydro authority?

**Hon. Mr. Morand:** It is conceivable. That is as far as I could go.

**Mr. Philip:** But you do not see that potential for conflict as any reason to suggest that Mr. Taylor should not have run for political office?

**Hon. Mr. Morand:** No, I do not. I reviewed it and, in fairness, I felt I could not deprive him of his right to run.

**Mr. Philip:** If someone comes with a problem to be investigated, would you not say that Mr. Taylor would be in a quasi-judicial position of deciding whether to proceed with an investigation?

**Hon. Mr. Morand:** No. First of all, the choice of whether to proceed with an investigation would not be his. That choice is mine.

**Mr. Philip:** But yours on his recommendation.

**Hon. Mr. Morand:** I get recommendations, yes, but with that type of thing the recommendation would come from the legal department.

**Mr. Philip:** If there is no conflict in your mind in Mr. Blair Taylor holding that position, why would you have suggested to him that he should not accept the full salary for that position but, rather, an honorarium?

**Hon. Mr. Morand:** I did not recommend that to him.

**Mr. Philip:** You did not recommend that to him? You are saying positively before this committee that you did not make that suggestion to him?

**Hon. Mr. Morand:** I can say that. I know what you are referring to, Mr. Philip. In discussing the matter, somebody said to him in my presence, “You would make a big fellow of yourself by cutting your salary by 10 per cent.” It was suggested that he cut his salary by 10 per cent. It was treated as a joke and everybody laughed.

**Mr. Philip:** You went along with it as a joke, saying, “Yes, that would be a good idea” or something like that?

**Hon. Mr. Morand:** I do not even remember whether I went along with it.

**Mr. Philip:** I believe Mr. Van Horne has a supplementary on that.

**Mr. Van Horne:** Just for clarification, as I understand it when you get into the legalities, the definition of conflict of interest includes “direct or indirect interest.” Is that normally how legal people look at conflict, as either direct or indirect?

**Hon. Mr. Morand:** Yes, I think that is a fair statement.

**Mr. Van Horne:** Would it not then be fair to suggest, if there is not a direct conflict, that there might well be an indirect one, given the relationship of utilities commissions to provincial governments?

**Hon. Mr. Morand:** I do not see any jurisdiction in our office that would involve this conflict. I cannot conceive of it coming up. It is conceivable, I must admit that. Certainly if that should happen, I think Mr. Taylor would then have a decision to make.

**11:20 a.m.**

**Mr. J. A. Taylor:** Mr. Chairman, on a point of order: I appreciate, as I always do, Mr. Philip's questions, but I am wondering if this is not really a matter for the Legislature to determine if it wants to further develop conflict of interest laws; for example, the member's wife.

The wife or spouse of one of us could run for school board, municipal office or this office, although I would not see the same conflict. A teacher can run for a board of education as long as it is not in the same board, and a teacher can run for municipal office. There are all kinds of areas where we might perceive a conflict which is permitted now and, as a matter of fact, where there has been a push on the part of members of the Legislature to enlarge the civic rights of citizens.

If we, as legislators, think the laws are wrong, then maybe we should be making changes rather than to be putting this kind of question to the Ombudsman.

**Mr. Philip:** On the point of order, Mr. Chairman, I think Mr. Taylor, being a lawyer, will appreciate what I am trying to do, which is to distinguish. Our party has been in the forefront in arguing that public employees should have the right to run openly for political office on political, partisan tickets.

What I am trying to get Mr. Morand's help with—and I appreciate that he has an insight into the judicial role, because he had that office before he came to us in the role of the Ombudsman—is whether or not, in his opinion, there is a distinction between that kind of conflict in the role of a judicial or quasi-judicial body, or of the Ombudsman—in those areas that might be considered for want of a better term quasi-judicial—and that of a public employee. Therefore, this line of questioning is completely in order.

**Mr. J. A. Taylor:** With respect, I do not want to become argumentative, but Mr. Philip may be confusing the role of an employee in the Ombudsman's office. Because one happens to be employed in the Ombudsman's office does not mean that one has a position of playing a quasi-judicial role.

**Mr. Philip:** That is what we are trying to find out.

**Mr. J. A. Taylor:** Mr. Morand has already indicated that in connection with Mr. Taylor. As I understand his answer, what he said was that—

**Interjection:** No relation to you?

**Mr. J. A. Taylor:** —and, incidentally, no relation—

**Mr. Chairman:** So you do not have a conflict of interest.

**Mr. J. A. Taylor:** I understood the Ombudsman to say that Mr. Taylor was not in a position of playing a quasi-judicial role.

**Hon. Mr. Morand:** I do not consider him so.

**Mr. Chairman:** Does that answer the question, Mr. Philip? Mr. Morand has said that he does not consider him in a quasi-judicial role.

**Mr. Philip:** If I may continue my questioning, Mr. Chairman?

**Mr. Chairman:** On the same subject?

**Mr. Philip:** On a number of topics.

**Mr. Chairman:** Certainly. Go ahead.

**Mr. Philip:** I would like to deal with the issue of your statement about your daughter. You suggested that there were a number of people who received raises in the legal department. Will you tell us exactly how many people received raises and what the procedure is for granting raises?

**Mr. Chairman:** Is that not contained in the statement?

**Mr. Philip:** I want some clarification. I am asking the questions, not you, Mr. Chairman. Your role is to keep order and not to screen my questions. I would ask you to do that.

**Mr. Chairman:** I am certainly willing to do that, but you are going over ground that has been covered. We have a limited amount of time in these estimates. But go ahead if you wish to pursue that.

**Mr. Mackenzie:** It is covered in terms of his report, but not in terms of questions.

**Mr. Chairman:** Carry on.

**Hon. Mr. Morand:** What happens is that the supervisor and/or the director recommend raises to Mr. McArdle, the executive director. They discuss it. They decide, in their opinion, who should get what raises and how much. They then notify me, discuss it with me and we discuss it in the total context of the budget. Mr. Mills, the controller, may get into the picture and it is

decided then. I either go along with their recommendation or I do not.

So far as I am aware, I cannot, offhand, think of any time that I refrained from going along, although I think there were one or two cases in which the raise was delayed for a short period of time, but that is how the raises come about.

**Mr. Philip:** Are these raises on merit or is there a discussion with the people as to why they received a raise?

**Hon. Mr. Morand:** They are on merit.

**Mr. Philip:** Are you aware that some of your staff were told that there was a "No increases this year" policy?

**Hon. Mr. Morand:** No, I did not know that.

**Mr. Philip:** Mr. McArdle, are you aware of any staff being told that?

**Mr. McArdle:** That there was no raise for the coming year?

**Mr. Philip:** That there was a "No increase this year" policy.

**Mr. McArdle:** I am not aware of any statement such as that. There was a statement made that there was a possibility, because of the restraint program, that in budgeting for this coming fiscal year, we may receive instructions that there will be no additional dollars for increases.

**Mr. Philip:** So it was that there might be no raises this year, not that there were no raises this year?

**Mr. McArdle:** That is right.

**Mr. Philip:** Were those who did not receive a raise informed as to why they did not receive a raise while others did?

**Mr. McArdle:** First of all, those who would not receive a raise would know whether they would or whether they would not. What happens is they do an assessment within the various directorates and the director and the supervisor consult with the individual and talk about how their work has been performed during the year. At that time, there will be either an indication that they will be considered for a raise, or else there will be no consideration for a raise.

**Mr. Philip:** There would be no salary scale posted in any way. For instance, I would not know if Mr. Bradley, who works side by side doing the identical job I am doing, was paid \$2,000 more or \$2,000 less than I am, would I?

**Mr. McArdle:** That is right.

**Mr. Philip:** Since there is no bargaining unit in your office, there would be no way of anyone finding out?

**Mr. McArdle:** Do you mean to find out that Mr. Bradley was receiving \$2,000 more?

**Mr. Philip:** Yes.

**Mr. McArdle:** The only way to find out is if the individual told you, or, if he is making over a certain amount of dollars, which is published in the government book.

**Mr. Philip:** If Mr. Bradley is going to earn \$2,000 more than I am, and it is based on merit, would it not seem reasonable that someone would sit down with me and say, "Here is what merit pay means, and here is the kind of thing you must do to improve your performance to get a raise"?

**Mr. McArdle:** This was explained to all the employees when we changed our salary structure and the method of remuneration to the individuals. When they have their performance appraisals, they review their objectives and their job qualifications and how they have been performing.

**Mr. Philip:** But there would be no way of one employee knowing how he rates vis-à-vis another employee doing identical work?

**Mr. McArdle:** There would not be a comparison between one man and another man the other individual would know. In other words, we would never say: "Mr. Philip, you are performing better than Mr. Bradley. Mr. Bradley is not doing the job," or vice versa. We are concerned with the individual.

**Mr. Philip:** And of the 21 employees in that legal office, you claim that 10 received raises?

**Mr. McArdle:** Legal directorate—10 received raises.

**Mr. Philip:** Can you provide us a list without the names? I am not asking for the names of those staff with those salaries.

**Mr. McArdle:** I think the estimates indicate that. The names are there and what the estimated amount would be and the timing would be for these people to receive their raises.

**Mr. J. A. Taylor:** On a point of clarification, on page 13 of the Ombudsman's opening statement, it seems to indicate—I am not sure and that is what I want to clarify—that there is a cost-of-living allowance that seems to have been adjusted from year to year. In these remarks, or questions and responses, is that being ignored, or do the employees get an automatic increase from year to year, and also a potential for additional increases based on merit?

**Mr. McArdle:** Very definitely. We have no control over the cost-of-living allowance. The



amount is supplied to us by the government, and it sometimes comes through in October and is retroactive to April 1. All employees within the office receive this.

**11:30 a.m.**

**Mr. J. A. Taylor:** That would be a raise, would it not? I presume it is an increase in pay.

**Mr. McArdle:** It is an increase in pay, very definitely.

**Mr. J. A. Taylor:** So we are talking about in addition to that; over and above that?

**Mr. McArdle:** Over and above the cost-of-living allowance there is the merit increase, that is right.

**Mr. Philip:** When your daughter first applied for the position, that position was not advertised, was it?

**Hon. Mr. Morand:** No. I have checked back also since the article was put in, and I find that the job was never posted in the office at any time and is still not posted in the office.

**Mr. Philip:** The position of assistant hearing officer, was that—

**Hon. Mr. Morand:** That was posted in the office.

**Mr. Philip:** That was a new position, was it not?

**Hon. Mr. Morand:** No.

**Mr. Philip:** Had it been created before?

**Hon. Mr. Morand:** Yes.

**Mr. Philip:** Was there an incumbent in that?

**Mr. McArdle:** It was an addition to the area of hearing officers. We had changed the structure slightly. What was happening in the past was we were taking a series of people out of the various directorates and sending them out to the hearings. We felt this was fairly disruptive to the various directorates themselves, taking people out of the legal directorate, the investigative directorate, out of special services.

When we reduced the hearings, there was only one individual involved, and we decided to go back into a larger scale of hearings. We felt that we had to have people who were solely responsible for that particular area; therefore, there was an expansion of the hearings area.

**Mr. Philip:** So, in fact, there was a new job created? That is what I am asking.

**Mr. McArdle:** It was an addition to the hearings area.

**Mr. Philip:** Was that one advertised publicly?

**Mr. McArdle:** That was posted within the office. The first thing we do is notify the staff within the office. They have first opportunity to apply for those positions.

**Mr. Philip:** Can you take us through the procedure? When you need someone for a particular post, what procedures do you use in the hiring process?

**Mr. McArdle:** We post, first of all, within the office to notify the individuals that this position is available and set out what the job is and what the specifications would be for a job description. We set a time for the people to apply. If we receive applications, they are reviewed. The individuals are given an interview by a three-person group, and the director, myself and the personnel individual discuss the merits of the individual, the qualifications of the individual. If there is a short list, it is presented to the Ombudsman with a recommendation of which individual in our considered position is the most qualified to fill that position.

If we receive no applications from inside, we would then advertise it outside the office.

**Mr. Philip:** Are there any instances when you would hire someone other than those found through advertising outside the office if someone within the office could not fill that position?

**Mr. McArdle:** Yes, because quite frequently we receive unsolicited applications for various jobs, and we keep these on file. We would review these, and there are often quite a few that in our considered opinion are quite qualified. We will then call those in and have an interview and go through the same procedure.

**Mr. J. A. Taylor:** Another point of clarification, if I may, Mr. Chairman: Is the hiring from within mandatory as a first step and then you go to the outside?

**Mr. McArdle:** I would not say it is mandatory, but—

**Mr. J. A. Taylor:** What is the basis for a closed system in terms of internal hiring before you advertise to the world that there is a job within your office?

**Mr. McArdle:** If you advertise to the complete world that there is a job and—

**Mr. J. A. Taylor:** It is a small world we live in. What I am trying to get at is that it is not clear to me whether your system is similar to the system within the civil service. As I understand it from the Ontario Public Service Employees Union, at least it is my impression that it is mandatory that

there be internal hiring, at least hiring from within, before there is advertising without.

**Mr. Cooke:** Internal posting; not necessarily hiring.

**Mr. J. A. Taylor:** Internal posting, but the first option is to the people from within.

**Mr. Chairman:** It is considered restricted.

**Mr. Cooke:** Well, don't you agree with that?

**Mr. Haggerty:** It's just clarification. It is restricted.

**Mr. J. A. Taylor:** Whether we agree or not, I do not know whether that is good or bad. I sometimes wonder whether it is a healthy situation to develop. I do not want to use extravagant terms, as have been used, but it might occur to some that it is an incestuous relationship to have the hiring contained within the organization.

I am wondering, and this is a point of clarification, whether or not you follow the procedure that is in place within the civil service of Ontario or whether you have another system. I use the word "mandatory" because my perception is that the posting is mandatory at the civil service level.

**Mr. McArdle:** We do not follow directly the "mandatory," but we feel that we should definitely give the opportunity to the individuals within the office to apply for the positions—in other words, upward mobility. If we have invested dollars, let us say, in a researcher, and he is made aware of and understands the act and how to correspond with various people through 19(1) letters, then it is an investment we should develop and give him the opportunity to move from that to a junior investigative position.

When we come down to lawyers, we may not have any lawyers within the office. Therefore, if we have a requirement, there is no use doing a posting within the office. We would then have to go outside the office and do a posting for that type of position.

**Mr. J. A. Taylor:** Is that upward mobility? You were talking about your preferences for hiring from within your organization because of familiarity with the process and your own system of advancement. Would that same situation prevail in bringing in people where it is not a question of a promotion?

**Mr. McArdle:** We would bring in new people if, let us say, somebody within did not qualify and we brought somebody in as an investigator. We would classify him as a junior investigator, he would be on probation for a period of time and he would be assessed at intervals as he went

along. If he was satisfactory and showed that he was going to handle the job properly after a certain length of time, he would then be put on the permanent staff and then he would have the opportunity to move from junior to intermediate to senior investigator. This is the process by which we handle it in the office.

**Mr. Philip:** So if I understand you correctly then, Mr. McArdle, a position is first posted within. If either no one applies or those who apply from within are not acceptable, or if you feel they cannot do the job, you do not necessarily advertise the position; you may simply call up some of the people who have written to you saying they want a job with the Ombudsman's office. Is that correct?

**Mr. McArdle:** That's possible. That's right.

**Mr. Philip:** How frequently would this happen as compared to an open, advertised competition?

**Mr. McArdle:** Recently we have had a flood of applications because of the job market, especially with the legal profession, and I could not say whether 70 per cent of the time it is advertised or 50 per cent of the time. I would say that frequently a position is advertised. I think we have probably been very successful in moving the people inside up to these types of positions and then bringing others in as researchers and training them through that area.

**Mr. Philip:** How many positions have you hired from outside without advertising in the last year or so? Can you give us those figures?

**Mr. McArdle:** I would be able to go back and look it up. I could not tell you right off the top of my head.

**Mr. Philip:** Mr. Morand, did you or any member of your staff, to your knowledge, suggest to any ministry official that you would like an amendment made to the Ombudsman Act to change the retirement requirement?

**Hon. Mr. Morand:** No, I did not.

**Mr. Philip:** Mr. McArdle, you did not convey any such message to any ministry?

**Mr. McArdle:** About?

**Mr. Philip:** About a possible amendment or the desirability of a possible amendment?

**Mr. McArdle:** Absolutely not.

11:40 a.m.

**Mr. Philip:** The same thing, I trust, holds true for you, Mr. Mills?

**Mr. Mills:** Quite true.

**Mr. Philip:** And you know of no one in your office who conveyed that message in any way to any minister?

**Hon. Mr. Morand:** I know of no one. The whole matter of extension arose, Mr. Philip, if you are interested, when I was being interviewed by a newspaper reporter—I think it was six months ago, at least—and he said, “You are coming up for retirement soon.” I said, “Yes.” He said, “What are you going to do when you retire?” I said, “I don’t know yet.” He said, “Would you like to stay on?” I said, “I would not mind staying on for a couple of years, but the act requires me to retire at age 65.” That is the only thing I ever said that I can think of, and it then became a matter of issue.

**Mr. Philip:** So it is fair to say that to the best of your knowledge neither you nor anyone from your staff lobbied for an amendment to the act.

**Hon. Mr. Morand:** I certainly did not.

**Mr. Cooke:** Has there been any discussion with the Premier (Mr. Davis) or the Deputy Premier (Mr. Welch) as to what will happen to your position after January when you turn 65?

**Hon. Mr. Morand:** I have said to a person in government that I was available—and this was some months ago—if they wished to reappoint me for another two years. That is the only thing I know of.

**Mr. Cooke:** There have not been any ongoing discussions of exactly what the future holds for that office? It is December 1 today, and we have about six weeks to your birthday, I think.

**Hon. Mr. Morand:** Yes, I know what I read in the newspaper. That is what I know. But I have had no promise—nothing.

**Mr. Van Horne:** Supplementary to that, Mr. Chairman, if I might: Your reference to an earlier comment, I believe, is a reference to the September 7 meeting with the select committee, at which time the issue came up and your January 17 birthday, or whatever it is in January, was put on the record. I wonder if between that time and now, in the light of what you have just said, there was no consultation between you and either the Premier or Mr. Stewart. Certainly there was no indication on September 7 that it was either of them you spoke to, although I guess it could well have been either of them. But between that time and now they have not spoken with you. Is that what you are saying?

**Hon. Mr. Morand:** I am saying that I did talk to Mr. Stewart in the interim, and just very recently, and said that I was available as a result

of what I read in the newspaper. But nobody has held out to me any undertaking, any assurance or any promise, nor did I ask for an extension of time or a change in the act.

**Mr. Van Horne:** So you were surprised to see what he had said in the newspaper.

**Hon. Mr. Morand:** I was surprised to see what he had said in the paper.

**Mr. Philip:** Mr. Morand, the dynamics of your office are fascinating. Someday some sociologist may write a thesis on it. Did you or Mr. McArdle at any time indicate to staff that in the week of October 4 you were going to be at home?

**Hon. Mr. Morand:** I did not. Mr. McArdle?

**Mr. McArdle:** To my recollection I did not.

**Mr. Philip:** So the time that you were in Switzerland, then, no one on your staff knew where you were. Is that correct?

**Hon. Mr. Morand:** No, that’s not correct.

**Mr. Philip:** Oh, that’s not correct.

**Hon. Mr. Morand:** No.

**Mr. Philip:** Who would know where you were?

**Hon. Mr. Morand:** I do not know how many in the office knew where I was. I know Mr. McArdle knew; I know Mr. Mills knew; I know Mr. O’Connor knew; I know Mr. Goodman knew.

**Mr. Philip:** If Mr. McArdle knew, why is it that when he was questioned by a reporter from one of the newspapers, this reporter informs me that Mr. McArdle said he did not know where the Ombudsman was?

**Mr. McArdle:** No, I am sorry, Mr. Philip, that is not what I said. I distinctly remember that question from the reporter. There was an individual who was standing in my office, and I notified the reporter that there was an individual standing in my office. He asked whether he had gone out of town, and I paused for a second and said, “Well, what are you talking about?” He said, “The trip to Switzerland.” I said: “Just a second.”

I am trying to remember. My other telephone rang, and I said, “Would you hold the line for a second?” I pressed the hold button and answered the other telephone. I turned to my credenza and pulled out my pad. I came back on the telephone and indicated to him that yes, he had gone to Switzerland and he was there for a couple of days. He phoned back for a clarification on the “couple of days” and he asked, “Was



it two or was it three?" I said, if I recall correctly, "He left on a Sunday afternoon, he was there for Monday and the meetings Tuesday and I think the meetings finished on Wednesday afternoon. He flew home on either Wednesday night or Thursday." I did not, at any time, state that I did not know that he was out of the country.

**Mr. Philip:** Did you also, during that conversation, explode with this reporter on the phone and say that you were tape recording your conversation?

**Mr. McArdle:** No, I did not.

**Mr. Philip:** Were you tape recording it?

**Mr. McArdle:** No, I was not. I would not do such a thing.

**Mr. Philip:** So you do not tape record your telephone conversations?

**Mr. McArdle:** I have no reason to.

**Mr. J. A. Taylor:** Maybe we should ask that question of the reporter.

**Mr. Philip:** I am quite willing to call him as a witness.

**Mr. Gordon:** Should we have the reporter before the committee to find out what is going on?

**Interjection:** For something as important as this, we ought to get the real facts.

Interjections.

**Mr. Philip:** I am trying to get the facts, Mr. Chairman.

**Mr. McArdle:** I think I clearly gave you the—  
Interjections.

**Mr. Philip:** I would like to simply go back to a couple of specific cases that I have dealing with the way in which the office operates. I would like to read to you a statement that I have and that I have sent to your office. Following this, namely a series of events leading up to this gentleman's problem, he said:

"I immediately filed a complaint with the Ombudsman's office by letter posted late July. On August 19, Doug Naish, the senior investigator, correctional and psychiatric services, responded with a form letter simply acknowledging receipt of my letter. Since that time"—and this is dated September 29—"I have had no further word."

Can you explain why it would take so long for your office to respond by at least sending out an investigator to look into a complaint like this?

**Hon. Mr. Morand:** I would have to know about the case and certainly if he wished to—

**Mr. Chairman:** We have just an hour to go now, Mr. Philip, so if you want some of your other colleagues to have an opportunity—

**Mr. J. A. Taylor:** Talk about taking a long time. My goodness, you are setting a poor example.

**Mr. Philip:** I waited for an hour and a half to ask a few questions. I do not think I have taken an hour and a half.

**Mr. J. A. Taylor:** You just asked a lot of supplementaries—

**Mr. Philip:** Are you saying this case is not typical?

**Hon. Mr. Morand:** No. I do not know where it is, whether at Fort Frances, Thunder Bay or Toronto. I do not know the facts. I do not know what happened. I can tell you what happens in the directorate. That is in one particular directorate and therefore—

**Mr. Philip:** This place is Guelph actually.

**Hon. Mr. Morand:** That is very unusual because somebody is going to Guelph—Mr. McArdle, you would know about that. How often does somebody go to Guelph?

**Mr. McArdle:** There is usually somebody going to Guelph at least once every week. It could be that the individual has been transferred out of Guelph and by the time we track his records down—you say the letter was written in July or August and he has not had a response since September.

**Mr. Philip:** September 29.

**Mr. McArdle:** Yes. The possibility is that he has been transferred two or three times, as a matter of fact. We have run into this difficulty especially in the corrections area. We send the investigator to Guelph and the records have been transferred to another area. It is then transferred within our own office into another region, but that will require another investigator, and that could be scheduled for the following week. By the time he goes there, the individual has been transferred to another institution. This happens quite frequently, as a matter of fact.

**Mr. Philip:** May I just read to you one—

**Mr. J. A. Taylor:** Mr. Chairman, on a point of order: I know, as a fact, that you have four other members who wish to ask some questions. While I enjoy Mr. Philip's advocacy, I still think that you have authority, under the orders, to determine and allocate the time among the members. I would suggest that you give someone else an opportunity so that one of us may be

reached. I think Mr. Van Horne has been waiting for some time and Mr. Philip has been speaking for about 40 minutes now.

**Mr. Chairman:** Mr. Philip, if you would like to consider yielding the floor, we do have four other speakers. Perhaps we can put you down on the list again.

**Mr. Philip:** Put me back at the bottom of the list and I will bring the other matters up later.

11:50 a.m.

**Mr. Mackenzie:** I would point out, Mr. Chairman, that Mr. Philip is not the only one, and I think all the questions I have heard today have been legitimate.

**Mr. Chairman:** I don't think anyone is questioning that.

**Mr. J. A. Taylor:** I am not questioning that.

**Mr. Mackenzie:** If we have not made the arrangements in advance, then you also have to consider cutting off a member.

**Mr. Chairman:** I thought, since we have only three hours, as I have mentioned on several occasions, the fairness of members would reign on this particular incident.

**Mr. Philip:** Part of my time was taken up with Mr. Taylor's supplementaries.

**Mr. J. A. Taylor:** That is right. I hate to use that technique in order to get on the list, but I hope I am on there somewhere.

**Mr. Van Horne:** Mr. Chairman, I want to ask all of the questions I have as quickly as I can to allow other members to ask theirs. Let me do this not in any sequence but just in the way I recall them.

First, on pages 8 and 9 of the Ombudsman's opening statement, there is reference to the question of nepotism. You specifically address yourself to the administrative assistant. On the bottom of page 8 you indicate that it was up to the Ombudsman to choose his own candidates. Then you go on to make reference on page 9 to the hiring of Mr. Nantais.

The understanding I have, however, is that Mr. Nantais was hired not as an executive assistant but as an investigator.

**Hon. Mr. Morand:** He was hired as my administrative assistant.

**Mr. Van Horne:** So that was the position he first had?

**Mr. Cooke:** He never had another position?

**Hon. Mr. Morand:** He did subsequently. He started as a junior investigator and became an

investigator actually to do a study and a paper on procedures in the correctional directorate.

**Mr. Cooke:** But he went right from Natural Resources to be your administrative assistant.

**Mr. Van Horne:** Okay, that was the sequence. I just wanted to make that clear. The next question, again going back to your opening statement in September of this year, was that you indicated in response to a supplementary question of mine today that you do not make reference to the cases that are ongoing. But in fact on page 36 of your statement back in September you do make reference to the 1,457 in-progress files including the 110 North Pickering cases. That is a specific reference.

Given the very general and deep concern of all members of the Legislature about Astra/Re-Mor, etc., I am wondering why that may not at least have been referenced in your September statement. In addition is the concern we have as to the number of man-hours, as you indicated to Mr. Haggerty, that had been devoted to that study. I guess it is a question of at least referencing it. Why would that not have been done?

**Hon. Mr. Morand:** Pickering was the only one that I know of that was reported. Pickering has been a kind of special situation in our office from the day I arrived. It started long before I got there. The select committee previous to the present select committee had a personal interest in it in that they were involved in the arrangements that were made for the appointment of somebody to hold a hearing, somebody to be appointed by Mr. Maloney. That was Mr. Hoilett. They had been involved in it and they had a special interest in the Pickering matter from the word go. They asked questions about the Pickering matter in every report. I guess it took on a special gloss because they did this and for that reason I referred to it in a special way.

The arrangement that was made before I arrived on the scene was there was an agreement entered into between the then minister, Mr. Rhodes, and Mr. Maloney. I was bound by that agreement. There was not anything I could do about it. The matter went on for years. Because of that delay, I guess it just took on a special position in our office and was referred to in the report.

**Mr. Van Horne:** Let us go to next year. Do you feel that given the concern we are expressing now about the Astra/Re-Mor/Argosy situation that some passing reference should at least

be made in the next report to the select committee?

**Hon. Mr. Morand:** I hope you are putting that as suppositional question, because I am not sure I will be around at that time. Whether the then Ombudsman should put it in, I guess, will be up to him. I certainly hope Astra/Re-Mor will be finished before that time.

There is another anomaly in our act. If I make a recommendation to a ministry, board or agency and my recommendation is adopted, then I cannot make a report on the matter.

**Mr. Van Horne:** Not even a special report?

**Hon. Mr. Morand:** No.

**Mr. Van Horne:** Okay, let us not dwell on that, because other people want to have a chance to ask questions. I want to go back to Mr. Taylor for a moment.

Section 11 of the Public Service Act outlines the rights of crown employees engaged in elections, and our understanding is that there is an internal document within the Civil Service Commission that indicates that this section does apply to deputy ministers and all other crown employees listed in regulation 881, schedule 2, part I and part II. In that schedule—I have a photocopy of it—is a long list of various people who may not qualify. Going to that regulation, where would Mr. Taylor fit in on that schedule?

**Hon. Mr. Morand:** My advice is that he is not listed as a deputy minister or as a person in a classification designated in there. Therefore, he can run.

**Mr. Van Horne:** Again, there is that long list in the schedule. Where would he fit in there?

**Hon. Mr. Morand:** He would not fit in. That is why—

**Mr. Van Horne:** You are saying he would not fit in anywhere?

**Hon. Mr. Morand:** Yes. That is why, as I read section 11, "A crown employee, other than a deputy minister or any other crown employee in a position or classification listed in the regulations, may be a candidate for election," anybody who is not listed there may be a candidate.

**Mr. Van Horne:** The next question I have is in regard to the relationship between the select committee and yourself. It has been resolved, or at least it would seem to have been resolved, by the action of the House two weeks ago Thursday night, when it did in fact adopt the ninth report and the recommendations contained therein. However, there is a concern a lot of us have that the relationship between your office and the

Legislature, as reflected in that particular committee at least, is one that needs improving.

I note in your opening statement today that most of the time and effort in that statement is devoted to trying to clarify criticisms that have been put to your office. Of course, there have been other criticisms too, such things as individual members complaining about the type of advertisements that appear in their local papers about the Ombudsman's office being available to listen to beefs. I believe that is the specific word used in the specific ad in the Belleville paper that Mr. O'Neil brought to your attention. If there is a need for a PR job within an agency of government, I would submit to you, it surely is there, with your office and its relationship with the Legislature, if not with the public.

I want to raise one other question. In the 1979-80 decisions from your office, 613 of the complaints that were dealt with responded favourably to the complainant and an additional 997, as I understand it, were directed in favour of the government. The 1980-81 decisions go something like 666 for complainants versus 1,485 for government organizations. There is some kind of indication, when one looks at those numbers, that the Office of the Ombudsman may be devoting more energy to clearing away cases than supporting aggrieved citizens. That may be not fair, but it is certainly a conclusion one might draw in looking at numbers.

**Hon. Mr. Morand:** If I remember correctly, percentages were up slightly last year.

## 12 noon

**Mr. Van Horne:** Again, these go only to 1980-81. Of course, there is the most recent year, the figures of which I do not have. The whole point in all of these words is that it seems that the Office of the Ombudsman, and I have said this on more than one occasion, is at a sort of crossroads in terms of its credibility within the political community and with the public at large. I am just wondering what you have to suggest as ways or means of improving that image, so that the office may very well carry on doing what it was originally intended to do.

**Hon. Mr. Morand:** That is a problem on which my predecessor, Mr. Maloney, spent substantial sums of money—in public relations—and got into problems. I have spent nothing on public relations and have got into problems. I do not know what the answer is.

**Mr. J. A. Taylor:** It does not cost you much to get into trouble then.



**Hon. Mr. Morand:** Probably I am not a good public relations person, I suppose. You are what you are. You cannot change it.

I think there has been a misapprehension, myself. I am totally and absolutely convinced that the office is giving excellent service to the citizens of the community. I am utterly convinced that we are doing more work, cheaper and quicker, than has ever been done in the office before.

Our complaints are up. Last year they were up 700 over the year before. This year they will be up 800 or more over last year. We are coping with the case load and we are reducing our backlog. We have reduced the backlog until there is none; it virtually is wiped out. Apparently, I have not been able to get that across to people. Certainly the statistics bear it out.

**Mr. Cooke:** You have changed the method of calculating the statistics.

**Hon. Mr. Morand:** I agree. We tried to change our statistics last year.

**Mr. Cooke:** That is one of the reasons it was hard to follow. It is harder to follow when they are changed every year.

**Hon. Mr. Morand:** The change has been practically completed now. The reason for changing them was—quite frankly, I did not blame people for not understanding them. I had a difficult time understanding them myself. There are too many subdivisions and variations.

**Mr. Cooke:** I wonder if a nonbusiness person could get in there and figure out how to keep statistics.

**Hon. Mr. Morand:** That is what we are in the process of trying—a nonstatistician. We had a statistician. They keep all kinds of weird and wonderful statistics but when you want an answer to a simple question it is difficult to get it.

**Mr. Van Horne:** I want to ask a final question if I might, Mr. Chairman. It is related to the supplementary of the member for Windsor-Riverside and the Ombudsman's response.

Earlier, in response to questions from other members, Mr. McArdle made some reference to the salary increases. I believe your response to one of the questions was, "I don't think a statement was made such as that," i.e. regarding no raises or no increases.

If you do not think it was made, who would know that it was made? I guess the basic point behind that question is, in addition to the function of the Office of the Ombudsman in so far as investigating complaints is concerned,

there has to be someone there overseeing the business operations of that office.

It has some 120-odd people in it. It is no bigger than a secondary school for which I was responsible and which had over 2,000 kids, 40 night-school teachers and 30 custodial and kitchen people. With regard to that group of citizens for which I had supervisory responsibility, I knew the salaries of those people. If there were statements made that did not come from the federation, they came from me. I think that is fairly common within the teaching situation across the province, or it certainly was when I was there some seven or eight years ago.

Surely in an office the size of yours, there is one person who knows what the hell is going on. Who is that person? Why is there such uncertainty about who is making what or what the business operation of the office is? If I might just editorialize on it, some of the problems in so far as public relations is concerned are coming from the business side of your operation, as opposed to the investigative side of your operation. I would like to know who is really running the show in terms of the business of that office.

**Hon. Mr. Morand:** Mr. McArdle is the one who is in charge of that aspect. That is the reason he was brought in to the job.

**Mr. Van Horne:** Then I would have expected his response to the question raised earlier to be very exact and direct. Was that statement not made by you? If someone else in the office made it as a supposition, then say so.

**Mr. McArdle:** That is what I thought I was indicating to the committee and if I was misleading, I apologize, Mr. Van Horne. The thing is I cannot be responsible for the statements that other people make in relation to this possibility of whether there are or are not going to be raises. I certainly did not make the statement to anybody on the staff that there was definitely not going to be any raises in the upcoming year.

That is not my position. I do not know whether the government is going to turn to us and say, "Reduce your budget by 10 per cent," or whether it is going to say, "Budget at the same dollars," or "Increase it by five per cent." Until such time as I know that, I could not make that type of statement whatsoever. In my position, it would be totally improper to do it.

**Mr. Van Horne:** I indicated that was my last question but with your indulgence, Mr. Chairman, I would like it to be extended to the amending of the Ombudsman Act, section 4, which specifies the 10-year term. Given the

opportunity for some input into that, what kind of amendment would you like to see in terms of exact years of extension?

**Hon. Mr. Morand:** What I can say is what I have said before and what I have said now, that I am prepared to serve for another two years. That is all I said. That is what brought the whole thing about apparently. I read something in the paper that they were talking about eight years. I certainly have no intention of being around that long, I can assure you, even if they did see fit to renew my term, which I would think might be doubtful but, if they did, I have no intention of being around that long.

**Mr. Cooke:** May I ask a supplementary? I want to ask this, but I do not want you to interpret it in the wrong way. I think you understand there are some members of the Legislature who have some questions about the philosophy of the Ombudsman's office and your philosophy.

Based on that questioning by a large number of members of the Legislature, some of whom may even suggest they do not have total confidence in you as the Ombudsman, do you still feel the same way you did a few months ago, in that you would be prepared to stay on past January 1983?

**Hon. Mr. Morand:** I really do not have the information you might have in that regard. If I do not have the confidence of the House, then I do not think I could stay on.

**Mr. Chairman:** I have four more speakers: Mr. Taylor, Mr. Miller, Mr. Cooke and Mr. Haggerty. We have exactly 40 minutes to go. I would ask the committee members to please try to be brief with their questions so we can get them all in.

**Mr. J. A. Taylor:** As my predecessors were, so I shall be.

On that expression of confidence, I had not heard before this morning that members of the assembly lack confidence in the Ombudsman. I would like to clarify my perception which is a perception of confidence, Mr. Ombudsman. I hope you do not go out of here misunderstanding that particular matter. I do not know where my colleague obtained his view, but maybe it is a personal view and I want to dissociate myself from that.

I am, however, interested in what process you have within your office for an ongoing, if not review, analysis of how the statute is working and whether it enables you to do your job as you see that job should be done.

I am mindful of the debate that took place for many years within these chambers at Queen's Park as to whether or not there should be an Ombudsman. The argument being of course that elected members were ombudsmen for the people they represented and they discharged their functions well. That view prevailed for some years.

One of the advocates of an Ombudsman was Vernon Singer who, I think, gave an annual address on the subject and was anxious to see that office created. My view of that office was that it was aloof from politics—not aloof from the citizens of Ontario, but aloof from politics—and a person there to ensure the little man, if I could put it that way, was not lost in the growth of government.

**12:10 p.m.**

**Mr. Bradley:** Little woman, little lady?

**Mr. J. A. Taylor:** In response to my Liberal and NDP friends, I am not eliminating the fairer sex from my remarks; I never do and I want that understood.

There is a view, and you can clarify this for me, that there is a distinction between what a person may seek redress for in law and what might in fact be just. I have understood the courts to say that they are not courts of justice, they are courts of law.

I wanted to ask you whether you see your role as not merely supplementing a judicial system, but as trying to address injustice where it occurs. That is my first question I would like to put to you.

**Hon. Mr. Morand:** Certainly, yes. The courts serve a very useful and very necessary purpose, but the Office of the Ombudsman is a separate and distinct type of redress for citizens. It has been called the new equity—those who are lawyers in the committee will understand what is meant by that.

But, equity existed some time ago. In the history of the law there were courts of equity and courts of law. They joined the courts of equity and courts of law into one court and that court was supposed to give equity and law in every decision. It has been the courts' boast that they do that right down to the present time.

However, there are many rights that citizens have which are not enshrined in law. There are many things that happen to a citizen during the course of his life, particularly in dealing with government today—as big as government has become and as complex as it has become—that just do not fit within the rules and regulations.

The Ombudsman is the person who can represent those people and who says: "At law you have no recourse, you cannot win at law, but you have been improperly treated and you should be properly treated." That is what we do and we do very successfully, I think, because every year we have some hundreds of cases in which we are able to redress the problems the people have, with sums of money up into the many thousands of dollars that people have had. So there is a big difference between the equity as disposed by the Ombudsman and the equity as disposed by the courts.

I come back to your earlier question about the members being ombudsmen and they did not need an Ombudsman and that is, I hope, true. The members are the first ombudsmen, they speak on behalf of their people. But the Ombudsman's office—and this is my view of it—was given certain powers by reason of the fact there are 125 members of the provincial Legislature. If every member of the Legislature had the same powers the Ombudsman's office has, of going in, seizing files, interviewing people and so on, I suppose the operation of government might come to a shuddering halt.

The members do not have that power. I think they allocated those powers so that someone would have them. They allocated those powers to an Ombudsman so that he could go in and do all those things. That is why it is important that the Ombudsman works in harmony with the members of the Legislature, but is not involved in the political process.

Certainly he should not limit himself, and the office does not limit itself, to making recommendations that people could achieve in law, because otherwise it would be a useless organization. The people could just go to the courts.

I do not know whether that answers your question.

**Mr. J. A. Taylor:** That leads me to another aspect, my second question. If you see yourself, and you say you do, as a dispenser of equity—I suppose the courts ensure the legal rights, but you see yourself as adding something to that, some conscience or some equity. It is my understanding that a person must exhaust his legal remedies, if he has any, before he goes to the Ombudsman.

That takes me to the Re-Mor case and some of the perceptions that have come out, from what I understand—that is, a process is currently under way within your office that might make a recommendation prior to the exhaustion of legal remedies. I was wondering how you

dealt with that, because it struck me that it might be precipitous for your office or for you to be making a recommendation in advance of a disposition of a matter in the courts, where not only might the law be exercised, but equity affirmed as well.

**Hon. Mr. Morand:** I wish I could answer that question fully, Mr. Taylor, because I am rather pleased with the suggestion I have made in my section 19(3) letter. That specifically takes into consideration the problem that there is an ongoing court matter. I just wish I could get into it, but I am afraid, if I do, I might be disclosing matters I should not disclose.

**Mr. J. A. Taylor:** I would not invite you to do that, and I know you would be discharging your duty by not responding. But it is an area that troubles me. I understand, because of the two processes, your process and the judicial one, there may be some immediate problems or conflicts.

**Hon. Mr. Morand:** There could be. Let us put it that way. I hope that—

**Mr. J. A. Taylor:** I am not trying to lead you where you have told me you are not going to go, but do you see yourself as then distinguishing a legal liability for negligence from a moral responsibility for a different kind of negligence? At least, it is the same negligence, but it does not have the result of legal liability. In other words, are there two kinds of negligence, one that has legal ramifications and financial responsibility, because of the judicial system, and the other a moral liability that you would administer, or endeavour to administer, through your office?

**Hon. Mr. Morand:** Without disclosing anything, I can say that, in my view, there are many types of negligence. There is gross negligence, which leads to certain conclusions in law. There is ordinary negligence, which leads to certain results. There are at least four or five different types of negligence, let me put it that way—

**Mr. J. A. Taylor:** In a legal sense.

**Hon. Mr. Morand:** In a legal sense and a moral sense.

**12:20 p.m.**

**Mr. J. A. Taylor:** I was distinguishing the two, because in a legal sense the results flow from the different types of negligence, but in a moral sense the results can only flow through your office where you have jurisdiction.

**Hon. Mr. Morand:** That is right.

**Mr. J. A. Taylor:** I was wondering how acutely you were aware of that and of the



ramifications of administering a super-equity or a super-conscience in terms of the conscience of the court, as you explained it being a court of equity as well as a court of law.

**Hon. Mr. Morand:** I am very conscious of it, because we are dealing with a matter that has been discussed extensively in Ombudsman circles and in the literature dealing with the Ombudsman concept. We should never be a court of law because, in my view, we have enough courts of law and they do their job.

One suggestion that has often been made is that the Ombudsman should have the right to make a mandatory order to compel the government to do things. In my view, if the Ombudsman ever gets into that state, he will just become another court and lose all justification for his existence. I think there must be a moral force rather than a legal force; otherwise, it just becomes another court.

Yes, I think there is a standard of negligence lower than the legal standard that leads to legal obligations which can be enforced in court. That is the type we often deal with in our office, where the person has no cause of action; that is, there is no particular law that says, "That was negligence and therefore such and such follows."

Mr. Justice Kirby of Australia has expounded on this situation. He believes the Ombudsman merely takes a place the courts have not yet arrived at. I take a different view. I say the Ombudsman does a job that the court does not do, cannot do and never will be able to do, because the Ombudsman, whoever he may be, must walk a tightrope of what is acceptable to the society within which he lives.

The question of what is right or what is wrong in a particular case depends upon the society in which he lives. For instance, going back in the history of dealing with the people, there are many concepts of right and wrong. There was the *lex talionis*, the law of an eye for an eye and a tooth for a tooth. One gets into the Judean concept of justice and one gets into the Christian concept of justice. They are not all the same. What is just and right to one group of society that was raised in a certain concept is different from what is right and just to another segment of society that exists in another concept.

The Ombudsman must, in my view, try to put himself in the position of the society in which he lives so that his findings are right and just to the majority of the people in that society. Otherwise, the office will lose its credibility in the eyes of the citizens and will lose its effect.

**Mr. J. A. Taylor:** What strikes me in this, and this is where I am leading, is that you really are in a position to create a liability or a financial responsibility on the part of a citizen or a government.

At present there is probably no way of insuring against that liability, because it would not be a liability or a negligence in law that could be established and therefore an insurance company could move in and protect.

There is another type of liability that maybe is not insurable. I am back to the Re-Mor case. If the government had insurers, it could turn it over to its insurance company and the insurance company could say, "If we have a responsibility here, sue us and prove we have a legal liability." Only after a judgement was obtained would the insurance company then pay.

Being a self-insurer, the government by analogy presumably would take a similar position. You have to establish a legal liability before the people of Ontario have to cough up their tax dollars for that particular liability.

With your office, of course, what you can do is assess a responsibility for which there is not any insurance, because it is really on a moral plane that is not recognized by the law in its present state. That is the point I am arriving at. I am just wondering how you address that.

My final point, in case you are wondering when I am going to end, is whether you have a process within your office—and I am ending up now where I started—whereby you have an ongoing review of your legislation: how it is working in the field and how you would bring forward recommendations for change of the legislation.

I am putting those two together now so the chairman will not cut me off.

**Hon. Mr. Morand:** I have one man, Mr. Brian Goodman, who is an expert in our jurisdiction and in our act. It is one of his jobs to keep up on any matters that need changing in the Ombudsman Act to allow us to do our job in a better fashion. Certainly many of our recommendations to ministries are on matters where there is no legal liability whatsoever upon the government or the ministry to contribute any money to the person.

I will anonymize one case we have ongoing wherein a job was done by a government ministry. They constructed a certain works for the benefit of the citizens of a community. They were done entirely legally and entirely properly. There were was nothing done wrong whatso-

ever in the construction and in the place it was constructed.

It is in the north country, where certain rules that exist in some of the municipalities in the southern part of the country are not in existence. As a result of this, in my view, it effectively reduced substantially the value of the property of the person who lived next door; it substantially reduced his enjoyment of life. Yet there is absolutely no legal responsibility whatsoever upon the government to do anything about that.

It is not a matter of major concern like Re-Mor or something of that nature, but it is a matter of major concern to that individual who is involved. We got nowhere with local officials, who said they did everything right. I have talked directly to the minister on that. The last I heard he was going to talk to somebody and get back to me. He has not yet got back to me.

The reason it is fresh in my mind is it came up in my diary just last week and I sent off an urgent letter that I wanted a quick reply.

Those are the sort of things where there is absolutely no liability whatsoever on the ministry. They did the job entirely right; there were no legal offences against this person. Yet they have injured that person.

I think it is my job to put that man's side forward and see whether I cannot get him compensated for his injury. That may involve many things. It may involve the expropriation of his property and incorporation of it into government property. It may involve a money contribution to him or something of that nature.  
12:30 p.m.

**Mr. J. A. Taylor:** Might it involve evolution of the law to encompass such a situation in the future and therefore take that type of circumstance out of your jurisdiction and into the legal process?

**Hon. Mr. Morand:** It very well might, because were certain laws in existence in that area which are in existence in the southern part of the province, this matter could never have happened.

**Mr. J. A. Taylor:** So you may very well be stimulating the evolution of the law.

**Hon. Mr. Morand:** I am satisfied we are.

**Mr. J. A. Taylor:** The final point I made, and I do not have to remind you of it, is whether you have a structured process for recommending changes in the legislation.

**Hon. Mr. Morand:** In the recommendations we make, we quite frequently make recommendations to the respective ministries that changes

in regulations and even in acts be made. Indeed, we have been successful in seeing some amendments to acts come through. Not too long ago, one member of a ministry said: "Thank God. We have been trying to get this thing changed for eight years. When you fellows got on it, you got some action."

**Mr. G. I. Miller:** Mr. Chairman, as a member of the committee for several years, I have the highest respect for the office of the Ombudsman. But it concerns me a little bit when one of our colleagues, the member for Windsor-Riverside, questions that high regard for the office. I believe the Ombudsman can perform a function on behalf of the smaller people and make sure they get fair representation against big government.

What concerns me—

**Mr. Cooke:** On a point of order, Mr. Chairman: Maybe my friend should reread the transcript or listen when someone is speaking. I did not question my support, and I do not think the member should be questioning my support, for the office of the Ombudsman. We were talking about a slightly different matter. I have supported and continue to support the office of the Ombudsman in Ontario.

**Mr. G. I. Miller:** For clarification, that is fine. But what concerns me, Mr. Morand, is the fact that the office has made some recommendations to the government and they have not been accepted. That is the other side of the coin. Is that of concern to you?

**Hon. Mr. Morand:** Yes. Are you referring to any particular case?

**Mr. G. I. Miller:** I believe there was one in the Rainy River district from the member for that area.

**Hon. Mr. Morand:** It does not ring an immediate bell. But if you speak to me, I will look it up and find out just what stage we are at on the matter. As you know, customarily when we make a recommendation and it is not followed up, we take further steps thereafter.

**Mr. G. I. Miller:** Do you recall whether there have been many cases where they have not been accepted?

**Hon. Mr. Morand:** Not many. There have been some but not many.

**Mr. G. I. Miller:** In my opinion, the position has been that yours is a nonpolitical appointment—there is no connection between politics and the office—and you are strictly neutral. If the Ombudsman makes those rec-

ommendations, it seems quite straightforward that the government should accept them and carry them out if they really want to make the system work.

**Hon. Mr. Morand:** That is my view.

**Mr. G. I. Miller:** The second question is, are the members of the Legislature working through your office in increasing numbers? Or is it decreasing? Have you noticed anything along those lines?

**Hon. Mr. Morand:** Certainly I get them every week. We keep track of that. I do not have the figures at my fingertips, because I have never looked it up, but I do know the members use our office with great regularity. At least every week probably two, three, four or five come to my attention that have been referred to us by members.

**Mr. G. I. Miller:** The third question is about your trips to Fiji and to Switzerland. Was there any useful information that you brought back to make the office work more effectively?

**Hon. Mr. Morand:** I think so. The trips I have taken and the discussions I have had have resulted in the streamlining of our operation. They have allowed me to find out how other people do their jobs.

One of the things that developed was flow of work in the office. When I came into the office there was a certain procedure for how the files would come into the office and how they would progress through the office. Every time a file moved from one desk to another desk, you seemed to have a built-in delay; if it sat on one person's desk for a month and then it moved to somebody else, it would sit there for another month and so forth. What we have tried to do is to streamline the number of people it will go to.

When a matter comes in, you cannot just give it to one person and say, "You do it from scratch," because so many cases come in each day. We are talking of probably 11,000 people contacting the office this year; so we have to have some system of deciding whether this matter is relevant and whether it is within our jurisdiction. Most of those are determined when they first come in by one group of people.

There are cases where it is difficult to determine. We have a girl who determines this, and she is very good at it; but if she cannot determine it, and this frequently happens, it has to go to the assistant director of the legal directorate and the final analysis is made there. Eventually it might come on to my desk to see whether we have jurisdiction, although generally by the

time it gets to me on jurisdiction it is because some ministry has said, "No, you do not have jurisdiction," and I have to fight it out with the ministry.

Once that is determined, then somebody has to send out the section 19(1) letter; that is the research department, where they prepare from the mass of material we get. People come in with bushel baskets of material on occasion. They come in with a 12- or 18-page letter, but really there is only one complaint in that letter. The research person has to sort it out, confirm what the complaint is and send a letter to the ministry involved, saying: "We have received this complaint, and we are going to investigate it. Do you have any comments you would like to make at this time?" Quite frequently they do.

When that comment comes back, either the matter is determined or resolved at that stage, which happens on a fair number of occasions, or it has to be investigated, in which case it goes to an investigating directorate and it is given to an investigator to investigate. At one time this took place in every case. Now we have streamlined matters.

Correctional matters go directly to the correctional field. They will come in through reception, but they go directly to the person who will go to the ministry, or to the institution to see the person and so forth.

These sorts of things have cut down on the time involved in the cases. One of the things I have learned from the trips is how to do things like that. Yes, I think they have made me a better Ombudsman.

**Mr. G. I. Miller:** What do the other offices indicate in terms of acceptance of recommendations by the authorities there, by the governments there? Are they readily accepted?

**Hon. Mr. Morand:** That varies from place to place and by jurisdiction. For instance, in Sweden it would be unthinkable for a government not to accept a recommendation. But there they approach their duties slightly differently from the western concept of the Ombudsman. In Sweden, they are primarily dealing with allegations of government corruption. There, the Ombudsman prosecutes cases in court; so the concept is slightly different.

But the acceptance varies. For instance, one of the problems when you compare statistics is that one of the jurisdictions I recently interviewed had 9,000 complaints per year about the telephone exchange because the telephone company is government-owned. People were charged for long distance calls or phone calls they did



not make. I do not want to be unfair, but I got the impression that the telephone system just took a sample number and on the basis of saying they made some mistakes—because they do not have a system like we have here where every call is spelled out—they corrected a percentage number and that was it; they did not do anything else with the rest. Coming back to your suggestion, it is only a small percentage of the complaints that are supported there.

12:40 p.m.

**Mr. G. I. Miller:** I have one final question. Discussing the expenditures and increases over the past four years, what was the average cost-of-living increase per year on a percentage basis?

**Hon. Mr. Morand:** In our office in 1979-80, it was \$152,985; 1980-81, \$243,959; 1981-82, \$365,077; and 1982-83, \$308,892.

**Mr. G. I. Miller:** Do you have that broken down on a percentage basis?

**Hon. Mr. Morand:** I do not. That is exactly the same percentage that the government gave. It varied with the salary, generally speaking; the lower the salary, the higher the percentage rate.

**Mr. G. I. Miller:** It was not on an across-the-board percentage basis?

**Hon. Mr. Morand:** No. I think the highest last year was more than 11 per cent, and that was in the lowest salary range.

**Mr. G. I. Miller:** I think that is sometimes deceiving to the general public. Members of the Legislature this year got a six per cent raise but on a cost-of-living increase across the board that could well be 11 per cent on a yearly basis over the past four years.

**Hon. Mr. Morand:** I have not worked it out in percentages.

**Mr. Chairman:** Mr. Cooke, we have exactly eight minutes left. Somewhere along the line I am going to bring down my gavel.

**Mr. Cooke:** Mr. Chairman, I can assure you I am only going to take about two minutes. While there were complaints about the time, the member for Etobicoke (Mr. Philip) took most of my questions; so he actually saved us time.

I want to ask one question with regard to the act and mandatory retirement. Do know of any other way, other than an amendment to the act, that you would be continuing on in January, or is that discussion or conversation taking place?

**Hon. Mr. Morand:** I read what was in the paper about what Mr. Stewart said. I think there are only three ways, and I think he covered

them: an amendment to the act, a special bill or a six-month interim period, which might be done but which would require, in my view, that I retire at least a couple of days before the time so they could appoint me as a temporary Ombudsman.

**Mr. Cooke:** I have just a couple of other questions. I have talked to you before at other meetings about regional meetings. Can you update me as to what has happened in the past year? There was one year when you did not have them and then you reinstated them.

**Hon. Mr. Morand:** Last year we increased up to 78 localities, and we are going even higher this year. Do you know the number this year, Mr. McArdle?

**Mr. McArdle:** No, I do not. Actually it is probably about 86; somewhere around there is forecast.

**Hon. Mr. Morand:** I think they are going to Windsor.

**Mr. Cooke:** I am not worried just about Windsor.

**Hon. Mr. Morand:** They are going there in a week or two.

**Mr. Chairman:** If I might ask, are those regional meetings well attended?

**Hon. Mr. Morand:** Yes. It varies from place to place. The length of time we spend in a place depends upon the previous expectation of the number of complaints we will get. Unfortunately, you are never able to completely judge ahead of time how many people are going to show. Sometimes they have to phone back to the office and say, "Send an extra body or two to talk to these people."

We did most of our complaints either through letters—because of the correctional field—or through the hearings held around the province.

**Mr. Cooke:** I do not suppose you have had an opportunity to gather any of the statistics that were asked for earlier on the cost of various trips. I guess they will be filed with the committee, but I would like to have them sent directly to our offices, if possible, because some of us are not regular members of this committee. Is that possible?

**Hon. Mr. Morand:** Yes.

**Mr. Cooke:** The final question is, on page 2 of your statement—the member for Etobicoke just touched on this—you say, "Over 70 per cent of people who contact our office have their matter attended to within one month."

You can correct me if I am wrong, and I am

sure you will, but is that not a very misleading figure when many of the people who contact your office have nonjurisdictional problems and therefore can be dealt with rather quickly? Would not a more accurate figure have been the percentage of the jurisdictional cases dealt with in one month? That would have given us a much better idea of how quickly matters are being dealt with in your office.

**Hon. Mr. Morand:** I recently checked what we ran through in the office. More than 1,600 jurisdictional matters were dealt with within one month.

**Mr. Cooke:** What does that mean? What percentage is that? How many of your jurisdictional cases are being dealt with within 30 days?

**Hon. Mr. Morand:** What percentage?

**Mr. McArdle:** While we have about 3,400 or 3,500 jurisdictional cases, probably about 1,700 would be handled within that time.

**Mr. Cooke:** So something around 50 per cent.

**Mr. McArdle:** More than 50 per cent would be handled within the first month.

**Mr. Cooke:** I think that is a more accurate statistic to find out exactly what is happening than the 70 per cent. There are many cases, I am sure, that are dealt with in one letter or whatever because they are nonjurisdictional.

**Mr. McArdle:** That is why we included an information request in there also, Mr. Cooke. In other words, we were not trying to mislead. There has been so much discussion about the total things that come into the office, we had to talk globally on it. That is why it was done that way.

**Mr. Cooke:** As I say, most of the other questions were asked by the member for Etobicoke. I probably will be back on the committee in the spring; so I look forward to seeing whoever is there.

**Hon. Mr. Morand:** Whoever is there. That is well put.

**Mr. Chairman:** Mr. Haggerty, you have probably got time to get a question in but not an answer. Try it anyway.

**Mr. Haggerty:** Mr. Chairman, I want to direct a question to the Ombudsman concerning his 1981 report. One of the recommendations was under section 43(1) of the Workmen's Compensation Act. I believe this has been kicked around for a number of years in report after report. Is there not any other aggressive approach that your office can take to bring this matter of the interpretation of that section to a conclusion?

**Hon. Mr. Morand:** We have done everything we could. The matter came up in the Legislature and nothing happened.

**Mr. Haggerty:** What has the Lieutenant Governor done in this area? Has he referred it to the Chief Justice of the province or what?

**Hon. Mr. Morand:** As far as I know, nothing. The last answer I had was that the study was being done by Professor Weiler; the matter would be considered by Professor Weiler and new legislation was pending.

**Mr. Haggerty:** Pending, eh? That is a long way away, though, is it not? They are still kicking that report around. I thought with your background in law in Ontario you might be able to pull some strings with some of your colleagues.

**Hon. Mr. Morand:** I cannot. I am not allowed to bring that in.

**Mr. Haggerty:** You are not allowed to do that. But it has been kicking around for a few years now, and it has caused a number of difficulties with members who make representation to the board. I find it a rather difficult area, and I am sure the member for Hamilton East (Mr. MacKenzie) has encountered the same difficulties. We are looking for some change in this area so that we have some clear-cut policy in this area, a true interpretation.

I suppose I could comment on the laws in the United States, where I think much of the legislation is such that you can understand it much more easily than you can a law in Ontario. They have an explanatory note alongside it, or with it, in their laws.

**Hon. Mr. Morand:** One of the problems in Ontario is that the act was first written in 1913, and it has never been completely revamped since that time. It has been amended, and I think it should be—again, I do not want to be advising the Legislature what they should do, but—

**Mr. Haggerty:** It would help, though.

**Hon. Mr. Morand:** It would help if the act were completely rewritten.

**Mr. Chairman:** Mr. Morand and gentlemen, thank you so much for appearing before us.

We shall now proceed with our vote. It is vote 1201, item 1. Shall the vote carry?

Vote 1201 agreed to.

**Mr. Chairman:** Shall the supplementary estimates in the amount of \$96,000, 1201, carry?

Vote 1201, supplementary, agreed to.

**Mr. Chairman:** That completes this hearing. We will meet at two o'clock this afternoon so we can get on with the estimates of the Ministry of Consumer and Commercial Relations.

The committee recessed at 12:50 p.m.

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McArdle, F., Executive Director

Mills, J. A., Controller

Morand, Hon. D. R., Ombudsman













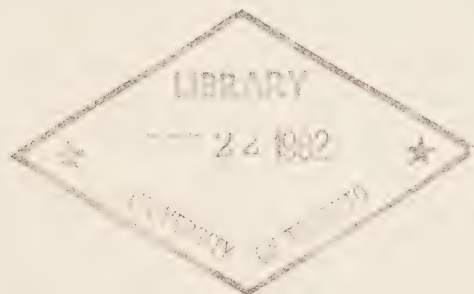
No. G-8

# Legislature of Ontario Debates

## Official Report (Hansard)

### Standing Committee on General Government

Estimates, Ministry of Consumer and Commercial Relations



### Second Session, Thirty-Second Parliament

Wednesday, December 1, 1982

Afternoon Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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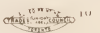
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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, December 1, 1982

The committee resumed at 2:26 p.m. in committee room 1.

### ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

**Mr. Chairman:** I recognize a quorum. We are ready to proceed with vote 1504.

**Mr. Swart:** Mr. Chairman, I am wondering if we could have unanimous consent to deal with another issue, if the minister has any information on it. It was reported this morning that there was a prosecution laid against Vic Tanny's. I know nothing more than that. I don't know if that prosecution was laid by the ministry or whether it was laid by the police under the Criminal Code.

Because I have been involved in this and because the ministry did some investigation, I am wondering if we could have the unanimous consent to have a statement by the minister. If he has information and is prepared to have a statement, I would like to have it made to this committee.

**Mr. Chairman:** Agreed?

**Hon. Mr. Elgie:** It is fine with me. I have two of the members of the staff who may report on this. Would you introduce yourselves for the record, please?

**Mr. Simpson:** I am Bob Simpson of the business practices division, and this is Allan Coleclough, chief investigator in our investigation and enforcement branch, who is, I am sure, quite able to indicate what has been going on with respect to the Vic Tanny's situation.

**Mr. Coleclough:** The charge that you are referring to was a charge that was laid yesterday. Alex Funston, the operator of Vic Tanny's operations in the Hamilton-Burlington-St. Catharines area was arrested and charged with fraud by the Hamilton-Wentworth police. He was arrested yesterday morning and there was a bail hearing yesterday afternoon. I don't know what the result of the bail hearing was, but it was a police charge.

**Mr. Swart:** Was it a result of your investigation or a combination of your investigation and—

**Mr. Coleclough:** It was a combined investigation by Hamilton-Wentworth police, Niagara regional police and our unit. We did have some input but the carriage was by the police in that region.

**Mr. Swart:** And the charge that was laid has been one of fraud?

**Mr. Coleclough:** That's right.

**Mr. Swart:** Are you people laying any charges directly, in addition to that?

**Mr. Coleclough:** No, not likely.

**Mr. Swart:** From the investigation which has been done in this matter, is there the likelihood of any funds for reimbursement for those people who lost substantial sums of money? I know there were people who had paid, for instance, \$1,000 for life membership in the new Vic Tanny's which was supposed to open. Is there a possibility that some of that money will be recovered for those people?

**Mr. Coleclough:** It is very difficult to say what will happen in the course of the proceedings now that Funston has been arrested or whether he will come up with any funds. At the present moment, there really don't seem to be any funds available, but during the course of the prosecution it is very possible that he might come up with some offer of restitution. I can't predict that and I would say it is most unlikely right now.

**Mr. Swart:** Your investigation was more than an investigation by the police. It would deal with the matter of the possibility of recovery of funds, would it not?

**Mr. Coleclough:** No, not really. The carriage of the investigation initially was by the police in that area. They asked us only for peripheral input and we didn't have access to the majority of the records. The fraud investigators have the substantial bulk of evidence.

**Mr. Swart:** Would your ministry not have done any investigation directly for that purpose to determine if there were funds and if there could be reimbursement? Isn't that one of the areas of concern in actual investigation by your people?

**Hon. Mr. Elgie:** Would you repeat that?



**Mr. Swart:** Yes. Isn't that one of the primary responsibilities of your ministry, and it probably comes under your jurisdiction—to do the investigation, determine if there are funds there and, if so, what amount can be used for the reimbursement of those who have lost the money? Is that not one of the primary purposes of any investigation you do?

**Mr. Simpson:** I think if I understand your question correctly, Mr. Swart, it is certainly something that is taken into account. When we are looking at any situation, we are looking at it from an investigative point of view and in terms of what approaches might be taken to resolve the situation.

As you know, in some situations we act in a mediation kind of capacity and the objective there is simply to restore money, to get money back and resolve a particular problem. In other investigations it is very clearly a situation where the judgement has to be one that it is better to launch and pursue an enforcement kind of approach to the thing.

In other words, the philosophy is one of, "The guy has done wrong; it looks like there isn't money available; we are going to prosecute him to the full extent of the law and use whatever is available."

What Mr. Coleclough was coming at is we find quite often in situations where individuals have been charged with 35 counts of something or other that, lo and behold, somewhere between the preliminary and trial there are offers of restitution and adjustments and so on and a process takes over that sees a combination perhaps of restitution and a plea of guilty to lesser charges.

We can start with certain approaches originally and we can conclude with different results, depending on how things unfold in the course of the investigation. We don't start out with one fixed and determined point of view. It depends on what we find as we go along.

**Mr. Swart:** I think perhaps you have given us all the information you can, but let me rephrase the question in any event. I understand of course that when the police prosecute their primary concern is getting a conviction for fraud, if they believe there is a fraud.

I also understand that under your investigation, if you find there have been criminal activities you are concerned about getting a conviction too, but my understanding is your responsibilities go somewhat further than that. Because they are licensed by the ministry, you

have a further interest in endeavouring to secure reimbursement for those people.

I understand either one of two things apply in the present situation; either you haven't gone far enough, or you don't know of any money available for a distribution.

**Mr. Simpson:** Obviously, I can't tell you all the things we are doing in the investigation. It is still a very active investigation, it is in a number of locations, a number of cities, and no avenue of approach to reimbursement or anything else is being overlooked. In fact, we are even helping people, advising people, in some civil actions. We are also trying to dig up information that would facilitate civil actions.

**Mr. Swart:** I am not saying it in a critical sense, but what I am saying is simply I gather from what you have said that at the present time you haven't found any evidence which would lead you to believe there is substantial money, if any, for reimbursement. Is that right?

**Mr. Simpson:** That's fair. I think we would be remiss if we indicated there was. I think it is better at this point to say there probably isn't.

**Hon. Mr. Elgie:** It points up the whole issue of prepaid services and the issue we have been trying to address in the last few months.

**Mr. Simpson:** There are many areas where people prepay.

**Mr. Breithaupt:** Indeed, the funeral service system is another one where, by my understanding, there is no requirement for audit and funding and all these other appropriate requirements.

**Hon. Mr. Elgie:** There are many areas. For instance, you will recall that thing in your riding, Jack, some time ago. What was it? That trailer park.

**Mr. J. M. Johnson:** Bellwood, out of Fergus.

**Hon. Mr. Elgie:** Yes, where some people had prepaid on a five-year lease. That's the same sort of issue. That's the area we are exploring now to see if there is any way we can help to protect people.

**Mr. Swart:** That was going to be my next question to you. Are you planning to bring in legislation or amending legislation which will provide the kind of protection and regulation with regard to limits on advance payment and that sort of thing, perhaps even to franchisees, that would give some protection to them?

**Hon. Mr. Elgie:** We are looking at the option to present as policy to cabinet in the area of

prepaid services generally. We are also looking at options with respect to franchises.

**Mr. Swart:** But you haven't determined yet whether you're going to—

**Hon. Mr. Elgie:** We haven't put our policy positions forward to cabinet yet, but that's what we're working towards.

**Mr. Chairman:** We will proceed now with vote 1504. The first item is on horse racing.

On vote 1504, public entertainment standards program; item 1, Ontario Racing Commission:

**Mr. Breithaupt:** Mr. Chairman, while the representatives from the racing commission are coming forward, perhaps I could have the indulgence of the committee just to put on the record a series of questions I had sent along to the minister. These are questions on which we would like some general information if possible. It need not be now; indeed, the minister can respond to these questions at his convenience.

As I say, these are a series of questions I had sent along to him on November 8. Perhaps if they are on the record of the committee, he can get back to me in due course to answer the questions. The questions are as follows:

1. Has the ministry absorbed within its estimates all internal cost increases resulting from inflation?

2. Has the ministry conducted an intensive review of its major programs and, if so, which ones?

3. Has the ministry, as a result of such a review, eliminated any organizations from its programs?

4. Has the ministry postponed any building projects and, if so, which ones?

5. Has the ministry proceeded with any building projects and, if so, which ones?

6. Will the ministry be placing or extending or renewing any management consultant contracts or organizational planning contracts in any vote item?

7. Has the ministry replaced any staff engaged in internal administrative functions such as information services, systems, plannings, records, personnel, accounts and finance and, if so, how many and in which functions?

8. Has there been an increase in personnel complement in any vote items and, if so, which ones and from where does the increase come?

9. Has there been a decrease in personnel complement in any vote items and, if so, which ones?

10. Has any decrease resulted in a transfer of

personnel into another vote item and, if so, which ones and the particulars of the transfers?

11. Has there been a reduction in direct operating expenditures for such areas as travel, communications, supplies, services, furniture and equipment in any of the votes and, if so, which ones?

12. Has there been an increase in the operating expenditures in any vote items and, if so, which ones?

13. Has there been a reduction in data processing expenditures in any vote items and, if so, which ones?

14. Has there been an increase in data processing expenditures in any vote items and, if so, which ones?

15. Has the program planning budgeting system, the multi-year planning system or the management-by-results system been applied to any of the vote items and, if so, which systems to which votes?

16. Have management-by-results abstracts been prepared with respect to any vote items and, if so, which ones?

17. Would the ministry table results abstracts which have been prepared?

18. Has any program from the ministry been selected by cabinet for special program review?

19. Did the ministry engage in any scientific research under any vote item and, if so, which ones and what is the nature of the research?

20. Has an assessment of the scientific research been conducted by the advisory committee on science policy?

21. Does the ministry provide any programs which may or may appear to duplicate existing federal or municipal programs and, if so, which ones?

22. What steps has the ministry taken with regard to any duplication of programs?

23. What is the total number of merit increases in relation to all increases for personnel?

**2:40 p.m.**

24. What is the present total number of persons working for the ministry as classified personnel, as unclassified personnel, as any other category for which the person receives remuneration, regardless of the characterization or categorization by the ministry as wages or service or otherwise?

25. Does the ministry employ any part-time staff? If so, how many and is this an increase over previous years?

If the minister could, at his convenience, respond to those questions by letter, I would appreciate having that information. I will not

take any more time of the committee, and I appreciate the opportunity of placing those questions on the record.

**Hon. Mr. Elgie:** We should have that information very shortly. I will be quite pleased to respond by correspondence. Do other members of the committee want copies of that correspondence? Since the questions have been put on the record here, that is up to you.

**Mr. Swart:** I would like to have that information.

**Mr. Chairman:** Any further questions, Mr. Breithaupt, while you have the floor?

**Mr. Breithaupt:** With respect to the operations of the Ontario Racing Commission, there is the continuing interest which we have shown over the years in the matter of offtrack betting.

**Mr. Chairman:** If I might interrupt just for a moment, so we can get agreement; do you want to split the time we have left? We have a little bit less than two and a quarter hours left for this afternoon for this set of estimates. Do you want to split the time between the two votes or spend more time on this vote than the next one?

What does the committee wish to do? We have two votes to go through today.

**Mr. Breithaupt:** I recognize we have the two votes, Mr. Chairman. For example, in this vote, I have two or three themes in each area which are not going to take any particular length of time. I think we will have sufficient time.

**Mr. Swart:** Nor will I.

**Mr. Chairman:** We will just go on and play it by ear.

**Mr. Breithaupt:** We recognize the federal jurisdiction is involved in offtrack betting and the law still does not permit it at betting parlours. There has been a recent broadening of the law to allow some regulations for telephone account betting or advanced betting and new betting pools for races.

It was interesting to see the intertrack betting experiment developed at Woodbine Race Track. I would appreciate being brought up to date on the circumstances there; how that has worked out and how you see that prospect continuing so those who are interested in the sport of kings will be able to have their interest and their opportunities to wager spread more widely across the province.

**Hon. Mr. Elgie:** And keep the employment that is so valuable to the communities from those facilities.

**Mr. Breithaupt:** It is like lotteries. It shifts the money around a bit. I do not know that it increases the grand totals, but it is an interesting pastime.

**Hon. Mr. Elgie:** Mr. McDonnell, would you care to respond to that?

**Mr. McDonnell:** As you are aware, the federal government introduced the legislation that permitted intertrack betting and telephone account betting early in August. It was implemented initially in Fort Erie.

In addition to the regulations promulgated by the federal Department of Agriculture, the intertrack betting and telephone account betting was approved, and the tracks were given an increase in their commission rate. That appears to be helping some of our smaller tracks. From the results we have seen so far, the Fort Erie trial period has been very well received.

The other thing we noticed is that with the intertrack from Greenwood Race Track to Mohawk Raceway, more people are interested in watching the video at Greenwood than they are interested in going to see the live action at Mohawk. That means one of two things: either we are getting money that otherwise would not have been bet or we are getting money that was being bet illegally with the bookmakers.

Our own initial observation is that we are getting people who, as a matter of convenience, are betting at the Greenwood track rather than taking the time and spending the money to drive to Mohawk. These factors are being taken into consideration.

Our industry study that addresses both of these areas is just in the final stages of completion. We hope to have that within the next two weeks.

**Mr. Breithaupt:** Is it your intention to have that study made generally available, either by the minister tabling a report in the Legislature or by distribution? If so, are you planning to invite comments on the report? What do you expect to happen after that report is in the public domain?

**Mr. McDonnell:** As far as the commission is concerned, before we go too far with it, we would like to sit down with the two segments of the industry; the standardbred and the thoroughbred industries. As you are aware, they are greatly different in a lot of aspects.

We would like to sit down and try to have a general round-table discussion on what recommendations are flowing from this and do an analysis of where we are at and the future of



racing. Using the study and the recommendations, we could recommend guidelines to the minister and to the Legislature for a course of action.

**Mr. Breithaupt:** Do you expect a somewhat practical report to come from the Ontario Racing Commission once you have had the opportunity of reviewing the earlier results with the two parts of the racing industry?

**Mr. McDonnell:** After the commission has had an opportunity to review the recommendations and meet with the two segments of the industry, we will then be able to come to our minister with some course of action that could be looked upon favourably and introduced to the Legislature.

**Mr. Breithaupt:** Do you expect that will be in place and possibly even completed before next year's season begins?

**Mr. McDonnell:** When you say "season begins," our season begins on January 1.

**Mr. Breithaupt:** Yes, I know.

**Mr. McDonnell:** The thoroughbred races begin the third week in March. We would imagine these meetings will have taken place prior to us looking at the racetrack tax-sharing arrangement.

**Mr. Swart:** I have a couple of questions. I just wanted to pursue the matter of offtrack betting a little further and ask the minister the opinion of his ministry on this.

I am not sure whether the federal government is going to move in this direction or not, but it would appear from newspaper reports that they may be softening their approach to it. They will consult with the minister about this matter and will probably, to a very large extent, accept his recommendations, or at least give considerable weight to his recommendations.

What is the position of this government now? Correct me on this if I am wrong, Mr. Breithaupt, because you have been here longer than I have, but when this question was asked before, the general feeling was that the Ministry of Consumer and Commercial Relations was not in support of offtrack betting.

**Hon. Mr. Elgie:** Has that been historically so, or have there been other positions taken?

**Mr. Breithaupt:** I did not feel it that way. I felt there was the usual side of the coin that we are waiting for your federal brother to do something and perhaps you could help. That record was played.

As I recall, Mr. Whelan, as the Minister of

Agriculture with that responsibility, was, to say the least, reluctant to get into offtrack betting. Through the days of Mr. Drea and Mr. Walker it was a matter of waiting in hope that the problem would be resolved.

**Mr. Crosbie:** I think that is a fairly accurate statement of the position. We felt the study Mr. McDonnell referred to was also a critical element in all this, because one of the major concerns we have had is that of the impact on market areas. As Mr. McDonnell mentioned, you get more people watching video than you have at the track. We were not sure how the federal proposals, if any, would impact on market areas.

2:50 p.m.

When racing days are set up, there is an effort to balance the market and try to be fair and equitable to all the racetracks. We felt those kinds of concerns could be addressed after we had examined the study and discussed it with the industry.

The final decision has always been in the hands of the federal government. We are not sure to what extent introducing intertrack betting and telephone account betting might have reduced the need for offtrack betting. We are all aware of the basic argument in favour of it, which is to reduce illegal offtrack betting.

**Mr. Swart:** Yes, we had some discussion about this matter when Mr. Drea was minister. He expressed some fairly strong reservations because of the increased betting, particularly by segments of society which cannot afford it, that has taken place in other jurisdictions.

I think he expressed some fairly strong sympathy with that viewpoint in this committee two years ago. I just wanted to find out whether the minister and the ministry are going to have any input in the federal government's decision. What you say is true. What they have done with regard to intertrack betting may indicate there would be less need for offtrack betting. On the other hand, it might be a move to broaden the whole matter of betting and might be leading up to offtrack betting.

**Mr. Breithaupt:** I think we would all agree we would not want betting as available as lottery tickets are. As a result, there were problems sorting out the locations they would be in.

**Hon. Mr. Elgie:** The preliminary reports seem to show they are doing pretty well with intertrack betting, are they not?

**Mr. McDonnell:** Yes, to date it has been extremely—

**Hon. Mr. Elgie:** I think we have to evaluate the impact of this particular approach. It puts it in the right place. People who are at the clubhouse can use the facilities there to bet on a race that will be held on another day, others can phone in and bet from money they have deposited in a special account. It is along the lines you were talking about. People who have the money and can afford to use those two programs are probably doing it. We should evaluate what effect that has on the industry.

Then there is the broader issue of offtrack betting in general. To be honest with you, I have not addressed my thoughts to it in any way.

**Mr. Breithaupt:** With the new face in federal legislation, I suppose this might be all the change that is going to occur for the foreseeable year or so, to see how it fits in.

**Hon. Mr. Elgie:** I would think so.

**Mr. McKessock:** I have been contacted by the rural, smaller racetracks and the horse breeders on this preliminary phase we are in. They already feel some effects within their areas. They are sure offtrack betting can do nothing but harm the small—

**Mr. Breithaupt:** This is the standardbred people.

**Mr. McKessock:** Right, it can do nothing but harm the small racetracks and the horse breeders. They feel betting is going to move to the bigger tracks.

**Mr. Breithaupt:** This has been their concern.

**Mr. McKessock:** If this happens, they would like us to look at allowing them to keep a bigger percentage of the take and having less go to the government.

**Mr. Breithaupt:** Is this the kind of thing that is going to be considered as a result of your discussions after the report?

**Mr. McDonnell:** There are two things. The report is addressing the effects of intertrack betting and telephone account betting.

Getting back to your smaller racetracks, what I mentioned earlier about the increased takeout to the tracks themselves is part of the parcel Mr. Whelan put forward. This increase was approximately three per cent over and above what they were able to take out before.

**Mr. Swart:** You have to salute now, do you?

**Hon. Mr. Elgie:** You have to look alert.

**Mr. McDonnell:** The Ontario Racing Commission is concerned. We realize we have reached the saturation point in the number of race dates we have in Ontario. Where do we go?

The other thing is that in today's economy we have some real problems in areas like Windsor and the Sudbury track for their continued viability. The commission has to look at all of these areas because it is concerned with the overall wellbeing of the industry.

I don't think when we talk that way that we can just isolate racing. We have to look at the breeding aspect, the number of farms, the number of people that are employed. All these areas have to come into consideration.

**Mr. Swart:** Are there any other questions on offtrack betting? I still have one question left, which has no relationship to that.

**Mr. Crosbie:** If I could add just one further comment, Mr. Swart, in further reply to your question about offtrack betting, one of the arguments that has been put forward in favour of it is that if we had offtrack betting we might pick up a significant segment of what is now illegal offtrack betting.

**Mr. Swart:** I understand that.

**Mr. Crosbie:** If we are able to do that, then the total revenues, tax revenues and otherwise, that would be available to subsidize tracks would be increased. One of the advantages of offtrack betting put forward was to support the small tracks. You could do it above what they would normally obtain, even if they weren't competing with offtrack betting.

**Mr. Breithaupt:** Has there been any experience from the New York situation that has shown that to be the case?

**Mr. Crosbie:** I'm not sure what the New York support system is on their smaller tracks. I don't know whether Mr. McDonnell knows or not.

**Mr. McDonnell:** I don't know the figures, but I noticed in the papers not too long ago that in western New York state a number of offtrack betting shops were closed down because of the administrative costs involved. How much money they are redirecting to the smaller tracks, I don't know.

**Mr. Breithaupt:** Presumably, in your review of where we might make changes or have different shares in the revenue in Ontario, you would consider what their recent experience is?

**Mr. McDonnell:** That's right. New York state has just completed a fairly extensive study much along the lines that we have done on their racing and breeding operations.

**Mr. Breithaupt:** Do you have that study as yet? This will be available to you, I'm sure.

**Mr. McDonnell:** Yes, when it comes through. Certainly it would be helpful in looking at the recommendations that are forthcoming in our own study.

**Mr. McKessock:** If that assistance doesn't come simultaneously with the drop-off of the small tracks—the drop-off in attendance, the drop-off in betting—then they will be out of business before the extra assistance comes. That has to be watched pretty closely or the small tracks will be out of business. That, of course, cuts down on horse breeding as well, because fewer horses will be needed.

**Mr. Crosbie:** Mr. Chairman, that was our position before they introduced the telephone account betting and intertrack betting. We felt they should wait until we had the benefit of this study so that we could cushion any impact. We obviously would have to be making a guess or an estimate or an informed decision on what the impact would be. That was our hope.

We are not that far behind with the study and we hope now we can make whatever adjustments or recommendations for adjustments are called for. But your point is the very one we made: the sort of immediate impact.

**Mr. Swart:** Mr. Chairman, I make the comment to the minister, and it may be purely a personal comment, that in the long measure there has to be some limits on gambling, including horse racing. In those jurisdictions where gambling has become wide open it has been detrimental to the communities and to the society.

**Mr. Breithaupt:** We are not too far from it right now.

**Mr. Swart:** My other question was a very simple question.

I noticed that you have paid out some \$18 million in the racetrack tax-sharing arrangement. First, can we have some explanation as to what that is used for? Second, what is the total tax revenue to the ministry from the tracks?

**Hon. Mr. Elgie:** Have you got those figures?

While we are looking that up, it's my understanding—Mr. McDonnell, correct me if I'm wrong—that the refund of the tax share portion went towards stakes. Is that correct?

3 p.m.

**Mr. McDonnell:** There was an all-inclusive program. On the standardbred side, for instance, 50 per cent of the total rebate went back in the form of overnight purses. The remaining 50 per cent went to the Ontario sire stake races that are

conducted throughout the province. A portion of those funds are used for equine research and also for breeders' awards.

On the thoroughbred side, it is a little different. Some of the funds go to overnight purses and a portion to equine research. The thoroughbreds have a limited number of Ontario sire stake races. Other moneys were put into the filly and mare stakes to make it more attractive to a man to upgrade his breeding stock of fillies and mares, to give him an opportunity to race for a decent purse and hope in the future they would be retained for brood mares, thus improving the quality of our horse stock in Ontario.

In our total program \$18 million was rebated and in 1981 we produced \$59 million just from the racetrack tax for the government budget. That did not include the revenues for licensing, stallion registrations and things of that nature.

**Mr. Swart:** So something less than one third was paid in sharing the tax with the industry.

**Mr. Van Horne:** I defer to Mr. Breithaupt.

**Mr. Chairman:** Mr. Breithaupt, you are going to defer to Mr. Haggerty. Is that correct?

**Mr. Breithaupt:** I believe that is the case.

**Mr. Haggerty:** What I want to talk about, Mr. Chairman, is the new betting that is being carried out, intertrack betting I guess you could call it, from Fort Erie to Toronto. I understand it has been quite a success, particularly at the Fort Erie racetrack. Are we looking to continue in this particularly area and improve on it in any manner or form?

**Mr. McDonnell:** I would think the Ontario Jockey Club intends to proceed with a further number of days for intertrack betting between Fort Erie on Woodbine and/or on Greenwood.

**Mr. Haggerty:** I understand it has helped the unemployment situation in the town of Fort Erie, which is rather high at present. I have gone driving by the track and I noticed the parking lot is pretty well filled with vehicles whose occupants are betting by this method. I was wondering if this is going to be available to other tracks in Ontario.

**Mr. McDonnell:** We do not have jurisdiction over that, sir. That again falls under the federal Department of Agriculture, racetrack supervision branch.

**Mr. Haggerty:** This was one of Eugene Whelan's policies or ideas that he put forward. There were some reservations at that time whether it would be successful or not, but apparently it has been. I was just wondering with other tracks,



such as Flamboro, and I guess there is one in Windsor, whether there can be a tie-in with the—

**Mr. McDonnell:** There has to be an agreement, as I understand it, between the associations. The other fact of the matter is whether their equipment is compatible with one another.

With the Ontario Jockey Club being the only operator that is conducting intertrack betting now, of course, their equipment is all compatible. I think the problem with some of the other tracks entering into an agreement with them might be that their equipment might not be able to function with the jockey club's equipment. These arrangements are private and made with the existing tracks.

**Mr. Haggerty:** In other words, your commission has nothing to do with it in any manner?

**Mr. McDonnell:** Not per se under the regulations. Of course, we are concerned if the marketing areas are jeopardized by the competition. That is part of our overall area.

**Mr. Haggerty:** I think this relates more to thoroughbreds than the standardbreds. No?

**Mr. McDonnell:** There could be movement for further expansion in the standardbreds. At the present time there is no intertrack wagering between Woodbine and Greenwood, but there is intertrack betting now at Greenwood on Mohawk every night except Sunday.

The figures are demonstrating now that the offtrack site, meaning Greenwood, is out-handling and having greater attendance than the live action out at Mohawk. We can account for that probably because of the distance and—

**Mr. Haggerty:** Would there be any difficulties in intertrack betting that may have some damaging effect upon the private tracks? Let us use Flamboro or the one in Windsor, which are not part of the Ontario Jockey Club.

**Mr. McDonnell:** This is what we are looking at in our study that is supposed to be forthcoming within the next couple of weeks. We have addressed this situation.

**Mr. Haggerty:** So we can expect that report in about two or three weeks' time?

**Mr. McDonnell:** In two weeks' time.

**Mr. Dean:** Mr. McDonnell alluded earlier to some problems he noticed already in areas like Sudbury and Windsor. Is that general then? What has been the effect of the downturn on racetrack betting across the province?

**Mr. McDonnell:** Other than the Metropolitan Toronto area, we have seen a general downturn

at all of our tracks. As a matter of fact, just recently the commission met with representatives of Windsor Raceway. They had experienced a very downward trend in competition with the Northville track, just south of Detroit.

There were a couple of things. The Michigan commission awarded the Northville track 10 triactor features per night, which is gimmick betting. Consequently, Windsor felt that they were losing a large part of their general, ground-floor clientele to the Northville track by virtue of these feature events. I think this is recognized by all racing jurisdictions, and we are always leery of this type of gimmick wagering.

However, the figures for the first three weeks of operation at Windsor showed that their handle had dropped from an average of \$480,000 a night down to \$406,000. Their attendance was dropping and, by the same proportion, the track in Northville, Michigan, was gaining on them. They met with the commission, and realizing the state of the economy and the situation in Windsor, the commission did, on a trial period, grant them four triactor features per evening to try and combat the competition.

The other thing they are faced with at Windsor is that they are repairing that bridge again and they have one-lane traffic coming over to Windsor. At night, after the races are over, going back there is usually only one turnstile open on the bridge, which certainly would frustrate a lot of our customers.

I think in granting the four triactors at Windsor it is a situation that we have had to realize their main competition is not within our jurisdiction, but within the Detroit area. These are the people who are attending; probably 50 per cent of Windsor Raceway's attendance is made up of United States residents.

**Mr. Breithaupt:** Is there the same proportionate problem when you compare Fort Erie with the Buffalo locations, or has that not been a particular concern?

**Mr. McDonnell:** That has not been a particular concern because, as you have to realize, Mr. Breithaupt, the Fort Erie track runs in the afternoon and Buffalo and Batavia are both standardbred tracks and they race in the evening. It does not seem to have the same effect that we are having at Windsor.

**3:10 p.m.**

**Mr. Dean:** Just to follow up my original question, would you be able to estimate what kind of revenue drop there is across the prov-

ince in general? Are we talking about 10 per cent or 20 per cent or what?

**Mr. McDonnell:** Perhaps Mr. Paradis, our secretary-treasurer, can give you those figures.

**Mr. Paradis:** Up to the point until intertrack wagering was introduced we were off a couple of percentage points. Right now, as of the end of October, our most recent statistics, we have shown a net increase in wagering, solely from intertrack wagering at the Ontario Jockey Club tracks, of approximately \$3 million on the standardbred side and about \$20 million on the thoroughbred side.

There is actually a net increase in revenue to the province this year, but solely as a result, we feel, of intertrack wagering. Some of our major centres outside the metropolitan area, as Mr. McDonnell has said, have experienced net declines this year, Windsor particularly so.

**Mr. Dean:** What about Mohawk?

**Mr. Paradis:** Mohawk, with intertrack wagering, is up about 25 per cent because they combine the Greenwood attendance with the Mohawk attendance. The only time that Mohawk doesn't have intertrack with Greenwood is on Sundays when the Greenwood track is not in operation under a city bylaw.

**Mr. Dean:** That sounds as though the recession is not having very much effect on those who know a "better" way to do things.

**Mr. Paradis:** I think only in the metropolitan areas.

**Mr. J. A. Taylor:** I thought that was clever.

**Hon. Mr. Elgie:** That was very good.

**Mr. Chairman:** Mr. McKessock, are your questions answered?

**Mr. McKessock:** Yes.

**Mr. Chairman:** Those are all the questioners I have on this particular vote, so we will thank these two gentlemen for appearing before us.

Item 1 agreed to.

On item 2, theatres, lotteries and athletics commission:

**Hon. Mr. Elgie:** Could we deal with the theatres first?

**Mr. Chairman:** We'll deal with the theatres first. It happens to be first on the list.

We have Mary Brown appearing on behalf of the theatres branch. Are there any questions of Mrs. Brown?

**Mr. Breithaupt:** Mr. Chairman, I have several themes I would like to raise with Mrs. Brown. The theatres branch over this last year or so

hasn't had quite the same profile it had several years ago with *The Tin Drum* and the other aspects of the operation of the theatres branch. I would be interested in hearing as to the local concerns and developments within the branch now that you have settled in as the chairman.

I have, over the years, been one who has been more interested in classifying films than in necessarily the censoring of them; although, as I discussed this morning in the Attorney General's estimates, even I am quite prepared to draw the line when one involves the situation of child pornography. I think it is one area that even the most unrepentant liberal would decide is an area in which we find a sickness within our society that is unacceptable.

There are, of course, concerns as the film censorship theme comes into that area. I would like to hear how these kinds of programs are being handled at this time. I note, for example, when we look at the operation of the branch, the members of the board are set out. There are a number of new names in these last couple of years. I would like to hear how the development of the part-time aspects of membership is developing and how you see that continuing.

Perhaps with those two themes for a start we could hear from Mrs. Brown, although if Mr. Swart or anyone else wants to talk about those two themes to start with, we could handle it that way.

**Mr. Chairman:** That would be a good start, certainly.

**Mrs. Brown:** I think Mr. Breithaupt mentioned the fact that over the past year or so we have been relatively quiet. I think part of that is due to the fact that perhaps we have changed our philosophy approach to what we call a censorship function in the province.

When I first joined the board I was uncomfortable with the idea that five full-time civil servants were making decisions for the rest of the province. To me, that was inconsistent with the democratic system.

As I keep saying, the 1978 Supreme Court decision in the MacNeil case seemed to clarify, at least in my eyes, our mandate. It said that if we were going to be making decisions on film in a democratic system, the decisions should be based on some kind of guidelines that are available to the public and that these guidelines should be developed in close liaison with the community itself.

In the past two years through a rotating board and a policy of open, constant and ongoing liaison with the community—and we have per-

sonally contacted and had input from well over 5,000 people—we have developed guidelines identifying content that is appropriate for each age group. I think that thrust of our board, the classification function, is perhaps the one that impacts on the widest cross-section of the community.

We developed the guidelines that identify content appropriate for the different age groups. They are supported by the majority. I also think we've identified that bottom line that people are willing to accept for exhibition on public screens.

The thing that was very reassuring to me was that once we had developed those guidelines, we made very comprehensive reports so that we would never have a Tin Drum situation again. These reports are available to the public on request so that all eliminations and every decision that we make on a film is based on published guidelines and a full screening report is also available to the public. We have also that accountability that makes it consistent.

The excitement in this approach was enhanced in March of this year when I attended an international conference of film review boards held in London, England. They were approaching film classification and review from a different perspective than ours. A lot of it was based on legislation.

The things we had identified in Ontario as totally unacceptable for public exhibition were explicit and very prolonged glorification of violence, sexual exploitation of children and the sex and violence combination of glorification of rape and sexual aggression. The things we had identified as unacceptable were the things that had been arrived at by different routes by the other 30 countries that were represented at the conference.

I think this similarity of approach is a reinforcement of the same concerns that are felt by the people of Ontario about the new kind of aggressive pornography, not just the sexual exploitation of children, but the new kind of pornography that combines explicit violence and sex, that glorifies and eroticizes rape and sexual aggression. These are the same kind of concerns that are internationally reinforcing a censorship or a regulation function of films around the world. Maybe that's why we're quiet.

The other thing I would like to add is that I think our research, our evaluation and our assessment of the Ontario concerns are being recognized by many bodies within the community, too. We are being consulted on attitudes in these different areas. We are, more and more,

emerging as having credibility in having done our homework in terms of Ontario attitudes.

**3:20 p.m.**

**Mr. Breithaupt:** When you look at the guidelines that have been developed, are they now in a concise brochure-type of form so they are available on public demand? For example, do you have these available in a brief form in public libraries or other sorts of locations, which could include the constituency offices of members?

**Mrs. Brown:** Yes. We've distributed about 25,000. This year we hope there will be even more. We've notified all the libraries of their availability. Most of them have asked for them. They are in every theatre in the province, in all the schools that have requested them. Of course, we circulated them immediately to all MPPs. I believe you have a copy of our brochure and guidelines.

**Mr. Breithaupt:** I must have forgotten that. I am pleased to hear that.

**Mr. Chairman:** I'm sure you got a copy.

**Mr. Breithaupt:** I probably did. I appreciate that it's had relatively wide distribution.

Again, in the Attorney General's estimates this morning we talked briefly about the censorship project that is going on between this ministry and the Ministry of the Attorney General as to the review of censorship laws generally.

Are you involved in the group that is dealing with that subject? If so, could you report to us on how it is coming along? Perhaps the minister would prefer to comment if there are any comments to be made on progress at this time.

**Hon. Mr. Elgie:** Mr. Crosbie, do you have any information about that?

**Mr. Crosbie:** I'm not quite sure what Mr. Breithaupt is referring to.

**Mr. Breithaupt:** I thought you were involved in a study on censorship with the Ministry of the Attorney General.

**Mr. Crosbie:** There was a review that was carried on in conjunction with the Attorney General arising out of some comments of, I believe, the crown attorney in Hamilton.

**Mr. Breithaupt:** It may not have been a broader thing than that.

**Mr. Crosbie:** That may have been it.

**Mr. Breithaupt:** Those are the immediate questions I had.

**Mr. Lane:** Could I have a question on that subject? You mentioned being at a conference



in England, Mrs. Brown, where a number of countries were represented. Where do we stand in that group of countries? Top, bottom, centre? Where are we?

**Mrs. Brown:** In terms of our standards?

**Mr. Lane:** Yes.

**Mrs. Brown:** I would say that probably the Ontario board processes, reviews and classifies as many, if not more, films than any other jurisdiction in the world. We are right on in terms of guidelines.

I think the most startling thing for me at the London conference was recognizing that our concerns were similar to those of the other countries and to realize that the countries we are being told are not censoring were the foremost and the leaders in saying that they have reinstated very strong regulations. Countries such as Sweden, Denmark and Norway are leaders in regulation of films.

The most disturbing thing to me is that much of the North American attitude to control of film has been based on what they call the Danish experiment, in which they legalized pornography in Denmark in 1967. The experiment was monitored by Dr. Beryl Kutchinsky on behalf of the Danish government and he reported that there was a decrease in sex crimes as a result of legalizing pornography. What his study did not clarify was that at the same that they took pornography off the books, they also took off a lot of minor sexual offences such as voyeurism and sexual harassment on the streets. Whereas the sex crime rate went down, the rate of serious sex crimes, such as rape, increased tremendously.

The other thing that has not been made clear is that Dr. Kutchinsky was monitoring the old kind of pornography, the old stag films. This new genre of pornography that has emerged since 1977, which is the aggressive form, which is not covered by legislation, which is soft core but combining sex and violence, is the kind of thing that all the latest sociological research indicates does generate sexual crime on the streets.

Dr. Kutchinsky, who up until March of this year had maintained that the legalization of pornography was beneficial, sat in the London conference and screened films we had screened for the past six months. He lasted about two minutes before he covered his eyes and said, "Oh, my God, I have never seen anything like this. This does not happen in Denmark. This must be controlled."

There is a new kind of aggressive pornography that is, according to the latest research, extremely dangerous in its impact on normal audiences. It's the kind of material we are dealing with now.

Again, the Criminal Code is still aimed at what we call hard-core consensual sex. It does not seem to have the kind of provision that is needed for this new kind of aggressive pornography that Dr. Kutchinsky was horrified about and that all the countries attending the conference have agreed must be dealt with in some way.

**Mr. Lane:** So you are saying that we are the leaders in the field of what we are trying to do with this.

**Mrs. Brown:** I would say we are right on track with most of the civilized world in our two main areas of concern.

**Mr. Lane:** You came back from that conference feeling fairly satisfied that we were going in the right direction and doing the right things basically?

**Mrs. Brown:** We are right on line with most of the other countries in our concerns, but we are ahead of them in our accountability to the public, because I think we are the only ones feeding back our reports and our cuts and our eliminations. All the decisions we make are very open. We are developing our guidelines from contact with the community, rather than deriving them in a paternalistic way from legislation.

**Mr. J. A. Taylor:** You mentioned, Mrs. Brown, aggressive pornography. I gathered from what you said that it wasn't the type of pornography that was contemplated by the Criminal Code. Am I wrong or am I right in my understanding of what you said?

**Mrs. Brown:** I think the Criminal Code, if you get into—

**Mr. J. A. Taylor:** Excuse me, can I back up just a moment? By aggressive pornography, are you talking about violence and rape?

**Mrs. Brown:** Yes.

**Mr. J. A. Taylor:** Okay, now we understand one another.

**Mrs. Brown:** The Criminal Code seems to be concerned quite often with explicitness of portrayal. Dr. Donnerstein, who has, I guess, done the most recent study on the impact of film, said that hard-core pornography usually is benign in that it is consensual. It's the soft-core aggressive pornography, combined with violence, that is the most dangerous in its impact.

Again, it's the difference between a very graphic portrayal of penetration, for example, as opposed to the depiction of an erotic rape.

**Mr. J. A. Taylor:** This is more subtle then.

**Mrs. Brown:** It is very explicit, but it combines sex and violence in a way that is not hard core.

**Mr. Breithaupt:** If I could follow through, is this an aspect of a number of films that have been presented for possible showing in Ontario?

**Mrs. Brown:** Yes.

**Mr. J. A. Taylor:** You say there's a trend, and I gather if there's a trend there's more than one.

**Mr. Breithaupt:** How many make a trend?

**Mrs. Brown:** I would say they form a very solid percentage. We would have maybe four or five a week like that.

**Mr. Breithaupt:** Aspects of that in whatever the story line might be.

**Mrs. Brown:** Yes.

**Mr. J. A. Taylor:** In terms of Ontario being "right on"—and I put that in inverted commas; I think you said we were "right on"—is it that some other nations, such as Denmark, which you have mentioned, are reforming their own reform laws to revert to a more traditional view of this type of portrayal?

3:30 p.m.

In other words, what I am really asking is whether experiments that have been made by other nations that someone termed progressive have really not been progressive but have had a bad impact on society and that maybe they are becoming more conservative in their approach. I don't mean conservative in a political sense but in the traditional, moral sense.

**Mrs. Brown:** The Scandinavian countries still permit total nudity and so on on the screen. I don't think that has changed; what they legalized back then is still legal.

What has happened in the interim is they have now reinstated censor boards to control and regulate this new wave, this new type of sex and violence pornography. Now the boards in the Scandinavian countries are dealing with and controlling and prohibiting the exhibition of films involving sex and violence, or the sexual abuse or exploitation of children.

**Mr. J. A. Taylor:** So Ontario then is becoming a standard, or is that maybe massaging your ego a little too much?

**Mrs. Brown:** I think it might be.

**Mr. Samis:** We used to be the laughing-stock of the country.

I have a couple of questions I would like to ask Mrs. Brown.

Where does the hard-core pornography, the aggressive type you are referring to, come from? Is it mainly from California, the United States?

**Mrs. Brown:** Mainly from the United States, usually in through Quebec.

**Mr. Samis:** Is California the headquarters for this type of thing?

**Mrs. Brown:** No, I think it has shifted from California. As a matter of fact, since some of the legislation prohibiting the use of children in this kind of film it has shifted to other states.

**Mr. Samis:** The eastern United States?

**Mr. Breithaupt:** When you say "in through Quebec," does that mean that these films are approved for showing in Quebec and then come here for similar approval?

**Mrs. Brown:** Not necessarily. Sometimes they come through Canada Customs into Quebec and then are distributed from there.

**Mr. Samis:** Into Ontario?

**Mrs. Brown:** Into Ontario, yes.

**Mr. Samis:** You talked about the international conference and you had the benefit of having met people from different countries. How many countries actually have this type of operation at the provincial or state level versus the national level? Are we not the exception?

**Mrs. Brown:** We are the exception in having a provincial board as opposed to federal.

**Mr. Samis:** You made some comment about you think your board, compared to other jurisdictions in the world, sees as many films, if not more, than virtually any other board. Would you say you see more films than, say, the Quebec board?

**Mrs. Brown:** In the last two years we have, yes.

**Mr. Samis:** What other countries' films beyond those in English do you see? For example, the French cinema is very popular in Quebec. You don't see many of those films, I presume, do you?

**Mrs. Brown:** Only if they are going to play in Ontario.

**Mr. Samis:** Yes, but who the hell is going to see it in Ontario in French?

**Mrs. Brown:** We would have, for example, many more films from Hong Kong, the Philippines and India than from Quebec.

**Mr. Samis:** Is there a problem with those films in terms of this new type of—I have the impression they emphasize violence much more than western films, is that true?

**Mrs. Brown:** Yes, that is true.

**Mr. Samis:** And that is a problem for you to deal with?

**Mrs. Brown:** Very much so. I was concerned with the increased violence in the films coming from Hong Kong, because three or four years ago they used to be either the kung fu type or gentle films. The last four or five years we have had a tremendous number dealing with the white slave trade, violent aggression, abuse, bondage and the whole thing.

I was speaking to the Hong Kong censor in London and asked him how he was dealing with it. He said, "Oh, my dear, they are making one version for Hong Kong and one for North America, because they believe the North American market likes violence." So the types of film we are getting are not playing in Hong Kong.

**Mr. Samis:** They are playing in Picton, I will tell you.

**Mr. J. A. Taylor:** Enough of those snide remarks, Mr. Chairman.

**Mr. Samis:** You never go to that theatre, it's a good one.

I have one final question. Can I just ask you, with the evolution of the board, as you have described to Mr. Breithaupt, how does our board, in structure and operation, compare with the Quebec board?

**Mrs. Brown:** In structure we are quite different, because they have full-time civil servants who are censoring. They do not liaise with the community on a regular basis. They consider themselves to be professionals, to be experts, and they decide.

As to the numbers being classified as opposed to censored and that sort of thing, the last clear statistics I have were for 1980-81, in which we screened 1,800 films. We did not approve five and we asked for eliminations in 64. In that same year in Quebec they screened fewer films than we did by about 50 or 75, but they rejected 95.

**Mr. Samis:** In total?

**Mrs. Brown:** In total.

**Mr. Van Horne:** I am not sure when Mr. Taylor was asking you about aggressive sexual violence, was the word "mutilation" included in your response to him, or is that another theme beyond what we are talking about now?

**Mrs. Brown:** I didn't use the expression "mutilation," but that is certainly much of what happens in a bondage film.

**Mr. Van Horne:** So that is part of this general definition.

**Mrs. Brown:** Oh, yes.

**Mr. Swart:** I am not sure I agree with the comment that things have been calm and quiet during the last year, and I am not sure that I agree with the comment that Ontario has the model in censorship or in control. I would think that this last year two instances in particular rather made the board a laughing-stock to a substantial extent.

One was in dealing with *Not a Love Story*. Selected groups were able to see it and others weren't, and that certainly was ridiculed by the press.

Also, dealing with the Festival of Festivals certainly brought some editorials and comments that were in no way complimentary and represented a broad section of the opinion of the community.

Having said that, I recognize the difficulty in this whole field. There are no easy or perfect answers in the field of control. I am one of those who feel that it should be left with the Criminal Code to a large extent, or perhaps entirely.

On the other hand, whatever method we have to use there has to be the prohibition of child pornography, the use of children, and the prevention of the aggressive sex in films. I recognize the difficulties.

I wanted really to ask the minister two or three things. I understand that there is probably some study going on with regard to the effect of the new Constitution on censorship. Would you comment on that?

I have two or three questions I want to ask you; maybe you want to take them one by one.

**Hon. Mr. Elgie:** It is my understanding that there is a case before the courts now on the issue of the charter. Is that correct, Mrs. Brown?

**Mrs. Brown:** I know there is one challenge to the board's mandate under the charter. I don't believe a date has been set yet.

**Mr. Swart:** Is your ministry pursuing this matter?

**Hon. Mr. Elgie:** What do you mean, "pursuing the matter"?

**Mr. Swart:** Are you getting legal interpretations or taking a stand on this before the courts? Are you going to endeavour to defend—



**Hon. Mr. Elgie:** We are taking the position that the Theatres Act is in keeping with what is acceptable in a free and democratic society, which is in line with the charter.

I think you have raised some important issues. I don't think you meant to imply them, but there were some implications in respect to *Not a Love Story* and the Festival of Festivals. I think Mrs. Brown deserves, and we deserve, the opportunity of explaining both of those situations in detail.

If that is all right with you, I think it is important that those be discussed, since you have raised them, and that they not be left in limbo.

**Mr. Swart:** I would be glad to have those discussed, but I also want to get the answer from you on that question, if I may. You have given one answer and perhaps you think you have given it fully.

**Hon. Mr. Elgie:** My answer was that it is my belief that the Theatres Act is in keeping with the charter but, as Mr. Breithaupt raised—and now I recall the sections of the issue he was talking about.

**3:40 p.m.**

The Attorney General (Mr. McMurtry) and I have talked about a revision of or a new Theatres Act with a broader public representation. Another thing the Attorney General feels is important is the annual filing of a report. The Legislature would be able to examine that report and on that basis, could broaden the public questioning of the role of the Board of Censors. That is what he was referring to.

So in a general way, yes, we feel the Theatres Act is in keeping with the Charter of Rights. Nevertheless, we are still pursuing amendments to the Theatres Act to broaden its democratic aspects. I expect to be taking that to policy field within the next month or two.

**Mr. Swart:** That was going to be the next question I wanted to pursue; what those changes were going to be. I would be glad to have an answer from Mrs. Brown—

**Hon. Mr. Elgie:** Would you comment on *Not a Love Story* first, and then give your thoughts on the Festival of Festivals, which was reported in the press last summer?

**Mrs. Brown:** I think one of the most difficult decisions for the board this year was on *Not a Love Story*. The original proposal and marketing plan for the National Film Board was that it be distributed as a noncommercial, educational film. It was hoped it would get the widest

possible audience by playing it publicly in different towns and cities around Ontario and then by making it known in different communities that it should be used in the context of smaller groups and discussions.

This policy approach was solely supported by our board to the point where every application for a request for public exhibition has been granted. We have never refused a permit for public exhibition of *Not a Love Story*. We have supported it to the point that we have gone out with it to help and to get involved with discussions. We believe it is making a statement about a common concern.

We did have problems. Our guidelines have been established for commercial distribution. *Not a Love Story*, for the best possible reason, does include extensive use of hard-core footage. It makes sense in terms of its use as a documentary and as an educational film. We were very happy to be able to issue permits for every public exhibition requested by the National Film Board. In terms of our guidelines for commercial distribution, the hard-core footage gave us pause and concern.

**Mr. Swart:** Did you class that as the aggressive sex you were talking about earlier or not?

**Mrs. Brown:** No, I would consider it—treading very delicately in this area because I am not a lawyer—

**Mr. Breithaupt:** It was the traditional approach, was it not?

**Mrs. Brown:** Yes. We have two ways of licensing for public exhibition: either a permit for specific allocations, or what we call the commercial bands, which take it anywhere in the province as a commercial and viable product. In this case, the original presentation to the board was that it go the permit route as an educational film.

**Mr. Samis:** Was the film shown in Quebec censored in any way, shape or form? Was that the full film you were presented with at the board?

**Mrs. Brown:** *Not a Love Story*?

**Mr. Samis:** Yes.

**Mrs. Brown:** Yes, it was the same film.

**Mr. Samis:** My wife and I had an opportunity to see it in Montreal. We both thought it was really hard-hitting, extremely educational, controversial, and tough in some scenes—although not in the violent sense. I think it really exposed commercial and criminal exploitation of sex, primarily in the United States.

I really find it very difficult to accept why you put that on the same level as some of the garbage that is available on Yonge Street or at the drive-in theatres in this province. I think that was an extremely educational film, tough as can be, and it was done tastefully. I thought the use of Linda Lee Tracy was imaginative, informative and highly educational.

I was really disappointed with your decision to ban it from commercial showings—and perhaps it is because it was sensational, I agree. It did not create any great controversy in Montreal when it was shown there. It stayed a rather long time and it was not greatly patronized in commercial theatres in Montreal. I think it is unfortunate that anyone in Ontario who does not belong to a select organization and did not get any privileged invitations or anything, cannot go to a commercial theatre in this province and see that excellent film.

**Mrs. Brown:** Could I clarify several of those things?

All right. I am deeply concerned that you say we would treat it with as much disrespect as the trashy things on Yonge Street. We support this film.

**Mr. Samis:** No, I did not want to put it that way. It seems to many of us in the general public that some of the movies on Yonge Street and at many of the drive-ins are pure trash. Yet here is a film of considerable quality made as a documentary by our National Film Board, that has won numerous awards, and the end result is that it was rejected in this province while some of the garbage from Hollywood, Europe or Hong Kong is being shown. I think it is fair to say we are the only such province in Canada.

**Mrs. Brown:** I would like to suggest two things in this area. First, had it gone the strictly commercial route I believe it would have probably reached 15 per cent of the population. The distribution within Ontario on this route means it has hit a cross-section. Hundreds of thousands of people have seen it. It is not an elitist kind of distribution. It is available through most libraries and it is available to individuals on request.

It was able to play in Quebec on a commercial basis because the Attorney General has done a separate interpretation of the Criminal Code in Quebec. Much of the hard-core footage we would have difficulty approving under Ontario standards is approved in Quebec.

The man who was responsible for the commercial distribution of that film in Quebec has publicly stated that he felt the commercial route

was inappropriate. He said it was abused and that people were going for the wrong reason. He felt—

**Mr. Samis:** That is not something you can control. No one can control why people go.

**Mrs. Brown:** He just felt it was inappropriate and he was the commercial distributor for the province. We made 1,800 decisions in the past year. That was one decision that was controversial. I do not believe it was wrong, I think it was wise, but then nothing is black and white.

**Mr. Samis:** Can I just ask one final question? I disagree with your decision and it was a very controversial decision. Without getting into details—since I do not imagine other people here have seen the film—what did you find unacceptable in that film? I presume it was the scenes in Boston and New York. Was that the essence of your objection to that film being shown on a commercial basis?

**Mrs. Brown:** Might I read to you a summary report on the film? Maybe that expresses our concerns. This is the advantage of having summary reports on all our decisions.

"This is a documentary which explores pornography in its various forms. Controlled screening of this film seems to be imperative. Fundamentally it communicates its concerns exceptionally well. Use of hard-core footage is not gratuitous and within the context of the film's meaning, is justified. The chief concern may be that this is a film about exploitation which under commercial distribution could, itself, be exploited.

"Paradoxically, this film could be shown for its hard-core footage in venues which promote pornography, and, perceived out of context with the message of the film, the footage itself can contribute to the desensitization so rightly questioned within the film. Part of the benefit will be in its capacity to elicit response, concern and action of a positive nature in the context of discussion."

So there was a lot of concern and deliberation and agonizing over the decision on *Not a Love Story*.

**Mr. Samis:** I just make the final point that in Montreal, from my knowledge, it was advertised as a National Film Board production, award-winning documentary. It created very little public discussion on that basis.

3:50 p.m.

It was not shown in any of the skin-flick theatres or outlets in Montreal. It was shown in regular downtown multi-theatre operations. It

was the same thing with *The Tin Drum*. There was no great controversy in Quebec. It was advertised as award-winning, ex-Cannes festival, etc. That was it.

I feel very uneasy about the stigma your decision has attached to *Not A Love Story*. It really had something to say and it makes a valuable contribution to exposing the commercial and criminal exploitation of sex in society. It is very beneficial to women as well that many men see that film.

**Mrs. Brown:** I believe literally hundreds of thousands of people in Ontario have seen the film and it is a good thing.

The manner of its exhibition is something else. But it was not a decision that we arrived at lightly.

**Mr. Samis:** No, I realize that.

**Mr. Crosbie:** Mrs. Brown, could you comment on how it was marketed in the other provinces?

**Mrs. Brown:** In British Columbia, it was distributed for the first many months as a strictly educational film, the same as it was in Ontario. This was done because the National Film Board representative in British Columbia said that was the only appropriate way for it to go. It was only after a lot of pressure—including media pressure, and some from people within the NFB—that they finally did go commercial. It was against the advice of the National Film Board representative and the women's groups in British Columbia, who felt the purpose for which it was made could be distorted in commercial distribution.

**Mr. Samis:** But the end result was that it was available in commercial theatres.

**Mrs. Brown:** Yes, just within the last two or three months, I believe.

**Mr. Samis:** I presume the deputy was interested in the other provinces and not just British Columbia.

**Mr. Crosbie:** I understood the Maritimes had a somewhat similar distribution.

**Mrs. Brown:** That is correct.

**Mr. Samis:** Alberta?

**Hon. Mr. Elgie:** Similar to what?

**Mr. Crosbie:** Similar to British Columbia and Ontario. The original marketing plan for the film was not for public distribution. We licensed it in accordance with the request that came in from the film board. As soon as they got that, it got distorted—I am not going to say how—and

it was immediately advertised that it had been banned in Ontario.

One of the things you have to remember when you say Ontario is a “laughing-stock” is that there seems to be a much more concerted effort in Ontario to discredit the censor board in the media than—

**Mr. Samis:** Maybe it is because the censor board in this province traditionally has been much more controversial than other censor boards.

**Mr. Crosbie:** Our experience in checking with other jurisdictions demonstrates we are not out of the mainstream of thought in this area. We do not deserve to be called a laughing-stock. By and large the province—

**Mr. Samis:** When I used that expression, I referred to the past. I still think it is fair to say that Ontario in certain cases in the past was considered the laughing-stock of this—

**Mr. J. A. Taylor:** By you, maybe.

**Mr. Samis:** Not by me alone.

**Mr. Crosbie:** The very case you cite, *The Tin Drum*, involved cuts that were made in England. The film was tailored to be shown in England, and was brought to Ontario with a different footage.

The very issue we have all talked about here of using children in explicit sexual scenes—and everyone seems to have said that is the bottom line for them—is what the issue of *The Tin Drum* is all about.

**Mr. Samis:** I have not seen that one. I have the impression from my colleagues who did see it that the context was very different from what we are talking about.

**Mr. Crosbie:** We are talking about a 12-year-old child—

**Mr. Samis:** Mrs. Brown has referred to it, but I do not want to enter into a debate on it.

**Mr. Crosbie:** No, sorry. I will try to make the point. It was a 12-year-old child in an explicit sexual scene.

**Mr. Samis:** But that was not the key theme of the film. The people I have talked to who have seen it said it was tertiary at best, if not beyond that. I have not seen it so—

**Mr. Crosbie:** But the point is, if you are going to ban children in sexually explicit films, it does not have to be the bulk of the film. Surely, if you are going to ban it, it should be a ban. This is what they do in England.

**Mr. Samis:** There are two choices. You can



reject the entire film or reject certain parts. I understand the cuts in Ontario.

**Mr. Crosbie:** It was the cuts. They were not banning the film. It was a cut.

Interjections.

**Mr. Samis:** We agree on this.

**Mr. Swart:** I just want to follow up. I would like the full answer to Mr. Crosbie's question to Ms. Brown. What did the other provinces do with *Not A Love Story*? You talked about British Columbia. What about Alberta, Saskatchewan and Manitoba? We know about Quebec, but what about those provinces?

**Mrs. Brown:** I'm not sure, I'm sorry. I know it eventually went commercial in British Columbia and in Quebec. I know that in Alberta it was distributed as a noncommercial educational film. I believe that was so in the eastern provinces, but I'm not absolutely sure.

I found it very encouraging that it did get into the libraries. To me, this is a marvellous way of getting it really into the right context and into a wide perspective of the community.

**Mr. Swart:** I have some reservations about that kind of limitation. You say it's not for the elite. The fact is a great majority of the people got the benefit from it that wouldn't have the opportunity—perhaps I should put it another way—would not take the opportunity to have seen it. As I said before, I recognize the difficulties in the whole field, particularly of violence with sex. How you draw the line and where you draw the line is a difficult decision. It seems to me that the courts, ultimately, are the ones that will decide.

**Mr. McKessock:** If it's in the library, it's available to anybody that wants to go for it.

**Hon. Mr. Elgie:** And the Festival of Festivals comments, Mrs. Brown?

**Mrs. Brown:** In terms of the Festival of Festivals, I feel that censorship is such an emotional issue that it tends to get distorted in reporting. I think we suffer perhaps more than any other branch in that area.

Since the inception of the Festival of Festivals in 1976, both the festival promoters and this ministry have recognized that festival films are exhibited to the public and therefore fall within the jurisdiction of the Theatres Act. In 1976, 1977, 1978, 1979 and 1980, every film, and they usually number 200, was physically screened and classified at the branch, along with our general products. We managed to do that within

a two-week period because they came in very close to the time of exhibition.

Every year since 1976 there have been four or five films which, due to what we consider to be material or scenes that were at that time below the bottom line of tolerance for public exhibition, were cut with very little fanfare. The requested eliminations were made and they were exhibited. But every year one was chosen and a media issue developed. I think the one they admitted to was *In Praise of Older Women*.

In 1981 the theatres branch adopted a new approach to exhibition films or films in a one-time exhibition. Many of the 200 films that came through for the Festival of Festivals obviously had noncontroversial content that could be easily approved just on the basis of storyline, description and content. They could not be classified, but they could be approved for adult audiences.

We did this this year, and of the over 200 films, I believe 187 were approved simply on the basis of storyline and description and on the basis of our knowledge of the films themselves. There were about 11 or 12 we felt, on the basis of our knowledge of the film and on descriptions, should be examined by the board prior to licensing for public exhibition.

If we are operating on the basis of community standards, if we are operating on the basis this is a public exhibition and on the basis, too, that many of the films that go through the festival are immediately released for commercial distribution in the province, then we are not approving for one day or two days. We could be approving for unlimited commercial distribution in the province because it does not seem to be appropriate to set up a system of elitism, nor is it possible under our mandate.

When we reviewed the few films that we had asked for physical screening, we noticed the following: In one low-budget production that had come from Germany there was a very explicit portrayal of fellatio, man on man. It was not off-screen, it was prolonged. It was explicit and it was very up front and centre. In terms of our assessment of community attitudes and public exhibition, this seemed inappropriate and inconsistent with the community standard.

**4 p.m.**

The other scene with which we had problems was in a film called *Cinq et la Peau*. In this particular scene, which again was prolonged, a beer bottle was inserted three times into the vagina of a dancer and she was again probed by the fingers of the male audience who were

attending. This again, festival or not, seemed a little below the line or the tolerance of standards of the Ontario community. If we're dealing with public exhibition standards, we felt most people would agree that this was unacceptable.

Those were the only two scenes in over 200 films that we thought we really had to draw the line on. I still think that if we are to represent the community and if there is a bottom line, then those scenes have to be it, without apology.

**Mr. Chairman:** Mr. Swart, are you finished with your questioning?

**Mr. Swart:** Yes, I think so.

**Mr. Chairman:** I must remind the members that we are, according to our time schedule, due to do two and a half hours this afternoon on the two votes. We have a little bit less than an hour—about 53 minutes to go. Mr. McKessock, you had a question.

**Mr. McKessock:** I certainly agree with you that you have a responsibility to the community and that you should feel that you have to take the steps you're taking to make sure that nothing too much out of line is permitted to be shown. Are all the films in Ontario that we see approved by your board?

**Mrs. Brown:** Anything that is on a public screen would be approved by our board and classified, yes.

**Mr. McKessock:** You mentioned that Quebec rejected 95 films. How many did Ontario reject?

**Mrs. Brown:** In the same year, five.

**Mr. McKessock:** That brings to mind the question, were the same amount of films viewed by each province? I was wondering how come they let the one go that Ontario didn't and yet they rejected 95 films.

**Mrs. Brown:** The processing with the Quebec board is that they do not make eliminations. They would reject a film in its entirety. The distributor would make the eliminations and then resubmit. Although there were 95 rejections, the same film might come back two and three times.

**Mr. Breithaupt:** And eventually the film would possibly be accepted?

**Mrs. Brown:** Yes.

**Mr. Breithaupt:** So the 95 figure doesn't tell us very much.

**Mrs. Brown:** It would not necessarily be realistic.

**Mr. Chairman:** You could get a film that has never been censored; it has just been rejected.

**Mr. McKessock:** Is that the same in Ontario? When it is rejected does the producer take it back and make cuts on it and present it again?

**Mrs. Brown:** He can. We have now published our guidelines and they are clear. If a film has so much objectionable footage that it would require a lot of trimming to make it acceptable, we would simply send it back to the distributor and not approve it. There are times when they would edit it themselves and submit a new version.

**Mr. McKessock:** Were some of these 95 that Quebec rejected approved by Ontario? There must have been, you would think, if Ontario had rejected only five.

**Mrs. Brown:** A version of them may have been, yes. It's possible. *Caligula*, for example.

**Mr. Breithaupt:** But not as originally submitted, or indeed submitted two or three times to the Quebec board. Perhaps the fourth submission might be the one which could have been acceptable in Ontario. It's hard to compare the two scenes.

**Mr. McKessock:** Or you might approve the original with cuts.

**Mrs. Brown:** That's correct.

**Mr. Swart:** On a supplementary, wouldn't it also be true that they would tailor these films to the guidelines of the various areas, so that really a film that their board gets compared with what you've had may not be identical? Is that not correct?

**Mrs. Brown:** I think it would be correct, yes. Once the guidelines are known, I think it's much easier for the distributors to assess the type of product that would be apt to have approval.

**Mr. McKessock:** In your classifications you mentioned that a permit is issued for educational purposes, for commercial purposes and restricted. What other classifications are there, or do they fit into those three categories?

**Mrs. Brown:** I was talking about the method of permitting or licensing. We have what we call unlimited commercial distribution, in which case we issue the censor bands that will take a film anywhere in the province at any time in any kind of context.

Quite often for films for art galleries or art venues, for festivals that are one-time exhibitions or even for ethnic theatres that may exhibit only one or two evenings and then ship the film immediately out of the province, we

would issue a permit for one or two specific dates in a specific venue. That was the type of permitting we used for *Not A Love Story*. They would tell us where it was going to play, the date and the place, and then we would issue a permit for that particular venue.

**Mr. McKessock:** Under commercial, would they be classified as adult entertainment in that regard?

**Mrs. Brown:** When we physically screen a film for commercial distribution, then we classify it according to content appropriate for the different age groups. The classifications now in Ontario are family, parental guidance, adult accompaniment, which is 14 and over, and those films restricted to 18 and over.

We have been using more and more recently what we call information pieces. They used to be called warnings. We feel that 10 years ago if we restricted a film everyone assumed it was because of sex. Now we might restrict a film because of violence or because of the undue use of offensive language, so we do add a lot of information pieces now about language or violence.

A lot of people have been concerned that some of the aggressive pornography is now going mainstream. It's not staying in the porn houses. It's going into Cineplexes and neighbourhood theatres. We have no classification that will identify a porn-oriented film. With our restricted film you will begin to see in the newspapers "restricted, sex film" as part of the program.

**Mr. Samis:** Isn't there also a warning that relates to religious themes? It seems to me there's a film out now where you have some warning it may be offensive to certain religious groups.

**Mrs. Brown:** That's one of our information pieces. It's Monsignor, I believe.

**Mr. Samis:** Monsignor, yes. Has that type of warning system or information system been out very long?

**Mrs. Brown:** Yes, that's right. There are 14 standard warnings, as they're called, that we use just to help people in their selection of a film.

**Mr. Samis:** I think that's educational and worth while.

**Mrs. Brown:** We find that the response has been very good to that.

**Mr. Breithaupt:** I would just ask one question—

**Mr. Chairman:** I've got Mr. Dean's name down first, Mr. Breithaupt.

**Mr. Breithaupt:** I'm sorry.

**Mr. Dean:** On this exact theme that was being followed, I wonder if Mrs. Brown could suggest where the board fits into the video-cassette business and home entertainment things. Where are you in that?

**Mrs. Brown:** Currently our jurisdiction extends only to films on public screens. It would not extend to a videotape for home use. That's private and personal and outside our jurisdiction.

What we found interesting is that many users of videotapes are very much concerned about some kind of classification of the videotapes they're taking home. We're getting many requests for information on how we have classified specific films that are available in video stores. We certainly do not classify, censor or become involved in any way in anything for home use.

**Mr. Dean:** You don't have any legal authority to do that?

**Mrs. Brown:** No.

**Mr. Dean:** Or to classify the ones that are in the stores for whatever use?

**Mrs. Brown:** No, only if they're exhibiting them in a bar or a lounge. Once they get on to a public screen, they must be classified and approved. If you had a videotape playing in a bar, then it should have our permit with it.

**Mr. Dean:** Who would have to seek your permit? The person who is going to display it?  
4:10 p.m.

**Mrs. Brown:** Yes. The person who is exhibiting would have to have the permit with the film.

**Mr. Dean:** It has nothing to do with the vendor or renter?

**Mrs. Brown:** It is the exhibitor's responsibility to have it. He can either get it from the distributor or from wherever he gets the videotape or he can apply to us.

**Mr. Crosbie:** Mr. Chairman, I was going to comment on that last point because it is one of the issues that is coming forward. Where the local bar or restaurant or whatever uses a video screen to show a film to a client group coming in, the theatre owners are arguing that they are technically a theatre. They say, "We are licensed and have to pay charges and licence fees as a theatre, but they don't."

**Mr. Haggerty:** But don't they inspect those premises?



**Mr. Crosbie:** Yes, but that wasn't the point they were making. They were more concerned with the fact that they're not licensed as a theatre. The way that theatres are set up now with Cineplex some bars are probably larger than some theatres.

There is a real issue developing here that we are trying to sort out. You raised the question about videotape, Mr. Dean, and I thought this was a point you should be aware of.

**Mr. Dean:** I would think that if we can justify the reviewing, if you don't want to call it censoring, of films for use in theatres there should be almost as much required in any other public place, such as bars—not that I'm a great one for regulations.

**Mr. Crosbie:** That is the case under the act now. If it is a public showing of the film, then it is subject to the same standards as if it was shown in a theatre.

**Mr. Breithaupt:** I just wanted to follow through on one final point. We talked about the board membership, and I realize of course that Mrs. Brown is a full-time person. Are any of those 13 persons named on page 106 in the briefing notes full-time members? Are there any civil servants still in the system?

Perhaps you could just explain to us the breakdown of the various individuals, the length of time of their service, and how all that holds together.

**Mrs. Brown:** Yes. The director and assistant director of theatres branch are civil servants. As civil servants they are chairman and vice-chairman of the board.

**Mr. Breithaupt:** Now, who is the—

**Mrs. Brown:** That would be M. Brown and C. Allen.

**Mr. Breithaupt:** M. Brown I know about. The other person, again?

**Mrs. Brown:** C. Allen. B. Morning is in there, but that person has retired and has been replaced by C. Allen.

**Mr. Breithaupt:** What's the "C" for?

**Mrs. Brown:** Consuelo.

**Mr. Breithaupt:** Consuelo, a female person, then. It is very difficult when one only has a single initial in front of a name to track down the age, sex and marital status.

**Mr. Dean:** You're not suppose to know.

**Hon. Mr. Elgie:** Perhaps you're not supposed to know.

**Mr. Breithaupt:** It may well have been that the board members are, you know, one, two, three, four, five, six, seven, up to 13—

**Mr. Dean:** And that's all the information, Mr. Breithaupt, you're going to get.

**Mr. Breithaupt:** That could be, but in any event, we have two persons, who are full-time persons, who happen—the luck of the draw—to be female persons. Now the others are—could you describe their characteristics?

**Mrs. Brown:** What I would like to clarify at this point is that the two female persons who are the director and assistant director of theatres branch are involved in administration of the branch and are not usually screening films or making decisions on a day to day basis.

The screening is done by five members who come in each day on a rotating basis. Most of them have other jobs, other professions and other backgrounds. They come in an average of one day a week, or two or three, depending on what amount of time they can afford to give to us.

They are scheduled for a month in advance. They screen in panels of five, and at the end of the day the board meets and reviews the content of the films of that day and comes up with the full summary reports and the decisions on each film.

**Mr. Breithaupt:** Just to go back a moment, I presume the individuals on the panels would rotate on a daily basis pretty well. But then you say, at the end the board meets—

**Mrs. Brown:** I am sorry. The panel for that day would be five rotating members, plus the chairman or the vice-chairman who would chair the meeting.

**Mr. Breithaupt:** So it is the panel of the day that resolves that particular day's work, and that day's work would be an average of how many films?

**Mrs. Brown:** Eight or nine perhaps.

**Mr. Breithaupt:** On the rotation of members, there would be some perhaps who are retired or semi-retired who would be there half a dozen days a month and others would be there just one or two. Is that the sort of thing that is developing in a sort of controlled chaos here, that sorts out the people who are available and balances up the panel?

**Mrs. Brown:** The ideal is, of course, when the new theatres act is approved and we go to what we call the full rotating board, which would be 25 or 30 members, each one would come in one

day a week only. As it is now, we have asked the members to indicate the number of days they would be available so that we will have a full panel each day.

Some might come in once every two weeks and then two weeks later come in for three days in a row, according to their own professional schedules. But it is averaging out, I think, maybe two days a weeks now.

**Mr. Breithaupt:** For most.

**Mrs. Brown:** For most, yes. By order in council no one is a full-time civil servant and they are appointed for a year, renewable for a year.

**Mr. Breithaupt:** They receive a per diem then, do they?

**Mrs. Brown:** That is correct.

**Mr. Breithaupt:** How much is that?

**Mrs. Brown:** It is \$85 a day.

**Mr. Haggerty:** What is the average age of the board?

**Mrs. Brown:** Right now, because of our two retired members from the industry, it would probably be 45 years of age. We have two in their 20s and two in their 30s, but we have some at the upper end of the spectrum, including the director, who is weighing it heavily in that area.

**Mr. Breithaupt:** In which area?

**Mrs. Brown:** Top heavy.

**Hon. Mr. Elgie:** If you had not told us, we would not have known.

**Mr. McKessock:** You mentioned that they do eight or nine films a day. Are these two-hour, full-length films?

**Mrs. Brown:** This is part of the procedure we have had to adopt because we do go through 1,800 films a year. Sometimes we have to split the board and have them screening in subpanels. All major films going into general distribution and any controversial films are screened by the full board.

However, if we get a number of films from India, which might be 18 reels in length and with which there is no censorship problem but could possibly be just for classification, then we would parallel them and maybe have two members screening one film and three members screening perhaps a film from the Philippines. Full reports would be made of that film and the recommendation vis-à-vis the guidelines would be made. That necessitates the meeting at the end of the day of the five-member panel plus the chairman to discuss the films that have been

screened that day, the notations and the recommendations in terms of classification.

**Mr. McKessock:** What happens when you run into a controversial one, like the couple we have been talking about, when it comes to the end of the day? Do they carry that decision over for another time or do they settle them all at one date?

**Mrs. Brown:** If it is a controversial decision and it is a close decision, such as four to three, we would put it through the next day's panel and take a sum of the votes. We like to have a very clear decision on anything that is controversial.

**Mr. McKessock:** So you run it through another panel the next day.

**Mrs. Brown:** In the case of *Not a Love Story* we felt it important that every member of the board see that.

**Mr. Breithaupt:** What do you do with respect to language involvement? You mentioned a film of perhaps some 18 reels from another country, which to most members looking at it one would think would lose something without the translation. How do you deal with the matter of language and any concerns you might have with the use of terms in one language or another, even though it is playing for a somewhat select audience?

4:20 p.m.

**Mrs. Brown:** Most foreign-language films are subtitled for Ontario distribution. With those that are not, we really have to rely on the visuals for classification. If it is in a grey area for classification—for example, if it is balancing between AA and restricted—we would put it in the restricted classification saying that language could compound.

If you are seeing 1,000 or 2,000 films a year, you can pretty well determine by the visual how heavy the language is apt to be. Language would never be a censorship issue anyway. It would only be a classification problem.

**Mr. Chairman:** Thank you, Mrs. Brown, for your appearance and for answering all those questions for the committee.

Lotteries will be the next one, Mr. Speight.

**Hon. Mr. Elgie:** Mr. Simpson, could you come up too please?

**Mr. Haggerty:** I want to talk to the first two items, bingo licences and raffle licences. I think the minister or the staff is aware of the situation in some of the towns along the frontier of Ontario, and particularly the town of Fort Erie, where they are having difficulty now. In the past

the difficulty has been with the selling of gasoline and other fuels in the area there where we have a large number of Americans coming over.

**Hon. Mr. Elgie:** Still?

**Mr. Haggerty:** They are coming in now for bingo.

**Mr. Breithaupt:** These were the two-mile tours.

**Mr. Haggerty:** Two-mile tours, yes.

**Hon. Mr. Elgie:** They got into the habit during the gas crisis.

**Mr. Haggerty:** There has been quite a flow of traffic across the Peace Bridge, but it is causing the municipality a problem of controlling the outlets of bingo. At one time it was handled pretty well by charitable organizations. Now it seems to be coming into an area where more of a professional and commercial development of bingo is occurring in the town of Fort Erie. There are cases, for example, where there may be an outlet which is doing pretty good business in bingo, where, to get his licence from the province, the operator says he is running it for a charitable organization.

What he does is go out and get somebody from the Kinsmen Club to come in and help him on a Sunday afternoon for two and three hours. The operator tells the helper he will get a take from whatever revenue is generated in the afternoon.

**Mr. Breithaupt:** A sort of bonus.

**Mr. Haggerty:** It is a front for sponsoring, in a sense. Another service club will do the same thing.

Then it comes into the other area of raffle licences—I guess you would call them Nevada or Las Vegas raffles, the pool type of raffle; they have different names for them. I understand that the clubs in the area which used to run these raffles are not now provided with a licence because the licence is going to the person renting the building. He says, "You cannot sell these any more; that is my area." What he is doing to get the licence, I understand, is making available a room in the basement if any of the club members want to have a meeting. In this way he can circumvent the rules and regulations.

It is becoming a profit-making business down there and not much of the profit is going to the charitable organizations. I suggest to you that it is going to get out of hand, and I think it has now, because the municipality is looking at it and asking how it can control it. Are we going to

have a bingo hall across from every gas station? This is what is going to take place.

I suggested to them that the new Bill 11 on licensing at the municipal level might apply, but now the municipality of Fort Erie has the problem of appealing to the Ontario Municipal Board to have an area rezoned and so on. This can be costly for the municipality.

There should be a closer look in reviewing who gets the licences in Fort Erie because bingo operations have become more commercial than for charitable organizations. To try to control them, the municipality has now come in with a bylaw by which the charitable organizations that used to run the bingo games now have to pay \$5 every time they run one. It is hurting some of the older charitable organizations that used to depend upon bingo to provide services to the needy in the community.

It is becoming commercial, and I suggest that certain service clubs are being used as a front because there is a huge profit to be made which is not going back to the community but going into the pockets of the promoters.

**Hon. Mr. Elgie:** There is no doubt there has been an evolution in the role of bingo in the community. It started out at the local church hall as a way of raising funds for that church and it has evolved from there. It is easy to say what you said, but these are all charitable institutions that apply for the licence. It is where they hold it that you are talking about. There isn't one of them who would say they don't want the licence given to them for their portion of the time; that's the issue, because they do get a yield from it.

You are very right. This is a problem area for us and it's an area that is growing. Bob and Don, I am sure, would be delighted to talk about it because we have had many discussions about it. We are in the midst of reviewing the issue now. Keep in mind, however, that these are legitimate charitable institutions applying for licences.

**Mr. Speight:** If I could make a comment there, you have brought up a number of very interesting issues. I have had some personal experience with the Fort Erie situation. As a matter of fact, I'm meeting on December 7 with all the organizations running bingo in the Golden Nugget Hall, to which I believe you may have been referring. They have asked me to come down and discuss some general issues and have asked me if I could be of any help to them in improving their operation.

As the minister says, all the groups involved in managing and conducting the bingos are chari-



table groups and all the profits, after expenses, go to the charitable causes.

**Mr. Breithaupt:** What are the proportions of expenses? Are they considered to be fair and appropriate with respect to what a charitable organization might otherwise earn in another location? Is that the kind of thing you are considering?

**Mr. Speight:** I should state at this point that all these licences are issued by the town of Fort Erie under the order in council which permits them to do so. I do not issue any permits in that area, so I do not have the financial reports on the operation. In discussing this recently with the chairman, I found they are quite happy with the results that are going to the charitable causes.

**Mr. Haggerty:** The thing I am concerned about is the end results of this. There is a huge profit to be made and it is not too likely going back to the charitable organization. Different promoters come in and say, "We want to rent a hall here and we want to change it."

We have a problem on Jarvis Street. They are taking up the main street parking on Jarvis Street and the merchants are not too happy about it. Municipalities now have to go and make recommendations to have it rezoned or apply to the Ontario Municipal Board. It is difficult when you get the feeling of the community saying, "We don't want it," and yet the town is going to have the official plan amended or seek a zoning amendment at the Ontario Municipal Board. You have the town solicitor come in and you would be fighting residents in the area. It causes quite a bit of animosity within the community.

I am suggesting that there are service clubs that have good service halls, large halls, and there is no reason why they couldn't be used in this area without bringing in a new bingo hall someplace else. When they are getting into this, they are getting into other areas of amusement and it is going to cause some serious difficulties within that town.

I know the Ridgeway and the Fort Erie Lions are perhaps the richest in North America because they do an excellent job in community work in the area. They are providing special needs to special people and are involved in building homes for senior citizen residents. They have a good thing going for them at the racetrack now. They have special permission from the Ontario Jockey Club to run bingos down there. They are perhaps going to be running into competition

from these promoters who are going to go out and expand the business. With the number of Americans who are coming over, they feel it is easy money for them.

I have talked to some service clubs and they are not too happy about it. They had the right to sell these tickets on draws, and so on, and they are no longer able to sell them in the bingo hall because the owner says, "No, that's my area." He is getting into it and he is not a charitable organization. I forget what the take is for the service clubs. It's not too great for the service club. It may be 10 or 15 per cent, and 85 per cent goes to the promoter.

**4:30 p.m.**

**Mr. Speight:** The reason those cards are not being sold in that building any more is that it was learned that it was an enterprise on behalf of the landlord and not the charitable groups. Once that was learned, those licences were revoked. Interestingly enough, that landlord is no longer the landlord of that building; it has come into a recent change of ownership.

**Mr. Haggerty:** Somebody from Niagara Falls is in there, but the previous promoters wanting to start another business someplace else that is close to a residential area. I understand there may be some difficulties.

**Mr. Speight:** The council, once again, authorizes the issuance of municipal licences. In any case where they issue a licence, they feel it to be in the best interests of the inhabitants. I think perhaps that council could conclude, with our support, that the opening up of another hall in that area, given the present circumstances, would not be beneficial.

**Mr. Haggerty:** I think I am not getting through to what I want you to look at. You are permitting professional promoters to enter into lotteries here and there is going to be a huge revenue taken from the communities and very little is going to be put back in. I can see it is going to happen, not only in Fort Erie, but in other communities too. It's a way to open a door for professional people to come in and run these and generate the profit and there is very little of it going back to the community.

I suggest to you that is not the intent of lotteries. They should be used for charitable purposes. When the biggest share of it is going someplace else, then I question it. Maybe the legislation should be changed or the loophole plugged.

**Hon. Mr. Elgie:** We are certainly looking at it. I don't think it is accurate that the majority of it

doesn't—a large portion of it goes as prizes and that's what people go there for. The second largest portion goes to charities and a portion goes for administrative costs. We are well aware of the problem you are reporting as to the extent of administrative costs.

That's an area we're looking at now, trying to find a way to deal with it, understanding that we all approve of the way it started, in the church basements. It has evolved, and may even be evolving now, in different ways. We are going to have to adapt to the different ways that it is evolving. It's a difficult problem because they are legitimate charities that have made the application.

Never mind how they got into that position. There is no one who feels that they have a greater right to the income that is generated from that than those individuals who apply for that charity. I tell you very frankly that they are very adamant that this is something they deserve, but that doesn't alter our need to make certain they are getting an adequate share of the pie. That is what you are saying.

**Mr. Haggerty:** That's right.

**Hon. Mr. Elgie:** I don't disagree with that. You understand it does present an evolving problem that is changing year by year, but we are endeavouring to address it.

**Mr. Haggerty:** I appreciate your staff being aware of the problem down there. I'm afraid it will just run away. It is going to get out of hand.

**Hon. Mr. Elgie:** I am glad you brought it up.

**Mr. Haggerty:** It's not only there, but it will go into Niagara Falls and every place else.

**Mr. Swart:** That was one of the issues I wanted to speak to too, but it has been pretty well covered. We have a real problem. It seems to me it is a little different from the way the member for Erie (Mr. Haggerty) has portrayed it. What we really have are some professional bingo hall owners who have created a situation where these legitimate charities, if they want to have a successful bingo, almost have to have it in these halls.

I have a question I want to ask at the present time. Do you have any right to limit the rent that can be charged by these halls to these legitimate charitable organizations? Is there a strict regulation on these halls with regard to what they may charge and the facilities they may have? I know in Welland the situation is that we have this professional bingo hall with these owners. All the various organizations almost have to get

into that hall because that is where the crowd goes now.

I took up with you on one occasion, or somebody at least in your department, that there was even perhaps some strong-arm methods being used to make sure all the bingo players came to that hall, with regard to buses and so on. Some of those bingo hall owners are not—how can I describe them so it is not libellous?—the most creditable businessmen in the community. They provide the facilities for bingo, the machines and all the rest of it, which makes it very difficult for the owners of the various ethnic group organizations to run a successful bingo in their own hall.

You have already stated you are looking into this and I think some very substantial changes will have to be made. It is all legitimate. I am not saying it is not legitimate, but perhaps you could answer a question: what rules and regulations are there at present on the rent these hall owners can charge, the percentage they may get and so on?

**Mr. Speight:** The Criminal Code permits us to issue licences to the charitable organizations which are conducting a bingo. There are no provisions to license the owners, the persons who manage the halls, per se.

Charitable groups conducting bingos are required to maintain their expenses to 15 per cent of their gross receipts. The expense package includes hall rent, bingo cards, advertising and so on. The influence over the rentals is through the 15 per cent maximum.

**Mr. Breithaupt:** Fifteen per cent of this—

**Mr. Speight:** The gross.

**Mr. Breithaupt:** So 85 per cent must go in prizes and the remaining 15 is—

**Mr. Speight:** No. The total amount spent by players for the evening would be the gross receipt by the charity. Of that they pay the prize money, which usually is in the area of 60 per cent.

**Mr. Breithaupt:** I see.

**Mr. Speight:** Then from that they have their expenses, which should be no more than 15 per cent of that gross amount. The balance then would be the charitable profit, which should be no less than 20 per cent of the gross amount.

**Mr. Breithaupt:** So that is the approximate rate.

**Hon. Mr. Elgie:** You have a problem when there is competition for bingo players in the same area. Then the 15 per cent is eroded and

these gentlemen have to start using their judgement. These are the areas we have to look at because of the competition for bingo players and the erosion of the 15 per cent rule.

**Mr. Swart:** There may have to be some licensing of these halls. I presume that is the sort of thing you are looking at.

It may be very difficult to stay down to 15 per cent for some of the halls where they average 500 bingo players a night. Five thousand dollars would be a very small amount in the gross receipts.

At 15 per cent, that means they can charge \$750 for that hall for a night. If they hold it seven nights and perhaps one afternoon or two afternoons during the week, it becomes a very lucrative revenue for those hall owners. Sometimes they just rent the hall. It becomes a very lucrative revenue for them because they have bingo; the various organizations have to come there because that is where they get the crowd.

**Hon. Mr. Elgie:** Let us also understand that when this erosion of the 15 per cent starts to take place, you do not have the manager talking to Mr. Speight; you have the charitable organizations saying, "We don't care about that, we're still getting a large portion of the pot and we need that to keep functioning." That is the problem they have.

**Mr. Swart:** I do not disagree with you on the problem. I think we would agree it is a very real problem and it has to be addressed. It may be a very difficult problem.

**Hon. Mr. Elgie:** It is a difficult problem.

**Mr. Swart:** We will have to take a look at it.

**Hon. Mr. Elgie:** Because the licensees are the charities.

**Mr. Swart:** The trend taking place is not good.

**Mr. Charlton:** Capital exploitation of charities?

**Mr. Swart:** It is, really. They are entrepreneurs who are taking advantage and ripping off the charities. I do not think that is an unfair statement.

I have another question but it is not related to bingo.

**Mr. Chairman:** But to the same witnesses?

**Mr. Swart:** No, to the minister.

**Mr. Chairman:** Then perhaps you can ask your question.

4:40 p.m.

**Mr. Swart:** I just want to know if the position has changed on casinos. I have numbers of

editorials during the last year in which they state that Ontario may be moving to permitting casinos in this province within the next three to five years. I know Quebec has turned down the idea of casinos. I just want assurance from—

**Hon. Mr. Elgie:** No, we are not looking at that.

**Mr. Swart:** I just want assurance from the minister that you are not considering the licensing of casinos or permitting municipalities to become casino cities or anything of that nature.

**Hon. Mr. Elgie:** No. One thing we are looking at is allowing perhaps an increase in the bet maximum—what is the bet maximum that is allowed?

**Interjection:** One dollar.

**Hon. Mr. Elgie:** We are looking at increasing that by fifty cents or something, but that is the only thing we are looking at.

**Mr. Swart:** That is something quite separate from this. Gambling and casinos—

**Hon. Mr. Elgie:** No, we are not looking at that at all.

**Mr. Swart:** They are very destructive to a community and society.

**Mr. Haggerty:** I believe at one stage though—if I could follow up with a supplementary—the former Minister of Industry and Tourism, Mr. Grossman—I think it was Larry—said that if they were going to have casino gambling on the American side in Niagara Falls, New York, they were going to have it on the Canadian side too.

Now I do not know if that ever got off the floor over there or not—

**Hon. Mr. Elgie:** I do not know that he said that, but we are not considering it.

**Mr. Crosbie:** And his successor said the opposite.

**Hon. Mr. Elgie:** And his successor said the opposite.

**Mr. Crosbie:** I think he said that if there is casino gambling in Niagara Falls, New York, they would have the gambling and we would have the tourism. We were not interested in bringing the casino over to compete—

**Mr. Haggerty:** That is not the way it came out in the press.

**Mr. Chairman:** The athletic commissioner.

**Hon. Mr. Elgie:** Here he comes.

**Mr. Chairman:** Where is Mr. Hennessy? We could have a little demonstration here.



**Hon. Mr. Elgie:** I think Mickey would not take him on that fast. I sure would not.

**Mr. Gray:** I would like to add, I only fight for money.

**Mr. Chairman:** Any questions of the athletic commissioner?

**Mr. Breithaupt:** Mr. Chairman, I would like to review with Mr. Gray the reports on the development of controls on and supervision of amateur boxing and wrestling. They are the more particular areas the athletic commission has responsibility for.

I would like to read into the record a portion of an article which appeared in the *Globe and Mail*; then perhaps Mr. Gray could comment on whether it is accurate and what the situation is now. This article appeared in the *Globe and Mail* on September 30 and was written by Paul Palango. I will just quote a portion of it.

"Supervision over amateur boxing in Ontario is so slipshod that young boxers are matched against fighters who are far older and stronger and some youngsters have been permitted to fight when injured. The parents of some young fighters blame the provincial government, maintaining that the lack of adequate provincial regulation leaves the health of their children exposed to unnecessary risk. While the province has garnered positive publicity in recent months by cracking down on professional boxing, insiders argue that Ontario's amateurs, including children 10 to 16 years old, receive less protection from the government than the professionals."

"The lack of clear guidelines has so frustrated government appointee Clyde Gray, the province's commissioner of athletics, who is ostensibly responsible for all boxing in Ontario, that he has thrown in the towel and is virtually allowing the amateurs to govern themselves.

"I have some concerns about what is going on in amateur boxing today," Gray says, adding, however that while government control is needed he has been unable to exercise his authority over the amateurs because he is unsure of his powers. What concerns Gray and others is a growing list of incidents involving young amateur boxers and the action, or inaction, of Boxing Ontario, the nonprofit organization that oversees most of amateur boxing in the province.

"Dennis Bradley, technical director of Boxing Ontario, says his organization governs 66 member boxing clubs and 914 coaches, officials and athletes; it sanctions bouts, appoints officials and issues boxing 'passports' to all boxers. In

each passport a boxer's fights are recorded, including the date, opponent, decision and presiding official's signature.

"The Ontario Amateur Boxing Association controls the remaining half a dozen amateur clubs. 'We try to keep a finger on everything that happens in Ontario with regard to amateur boxing,' Bradley says. There are some, however, who believe that, while Boxing Ontario might have the best interests of the amateurs at heart, it is underfinanced and unable to police the sport as strictly as is required."

That completes the quotation I wanted to give. It does raise a number of issues and concerns. I would like to hear from Mr. Gray, and as well from the minister or the deputy minister, on how they see developments in this area. It is one that doesn't come to our attention very often. Unfortunately, it comes to our attention when perhaps there is a serious injury that has very difficult results in damage or even occasionally in the death of a fighter.

I would like to have a review of these themes that have been made concerning whether the regulations are satisfactory, whether the chain of control is clear and whether, as commissioner, Mr. Gray believes he is able to do the things which have to be done to make sure that this system is operating well.

**Hon. Mr. Elgie:** Could I, first of all, ask the deputy to run over the legislative background of this; then we can have Mr. Gray respond.

**Mr. Crosbie:** I don't want to put Mr. Gray at a disadvantage, which your question might do. There is a history of the arrangements for the administration of professional and amateur sport that goes back beyond his term of office. A few years ago a decision was made to divide the responsibilities under the Athletic Control Act between our ministry and what is now the Ministry of Tourism and Recreation.

Tourism and Recreation is basically responsible for the promotion of amateur sport in the province and has quite a broad range of programs for promoting amateur sport.

**Mr. Breithaupt:** I recall this was in the Ministry of Labour for some time, wasn't it, years ago, the athletics control?

**Hon. Mr. Elgie:** Yes. Everything else was there. Why not that?

**Mr. Breithaupt:** Now you've got everything else.

**Mr. Crosbie:** Then the program came to our ministry. The decision was made to very clearly delineate the responsibilities so that the athletic

commissioner would only be responsible for professional sports. The amateur aspects of it would stay with Tourism and Recreation. This is the way we have been operating.

This puts Mr. Gray in a very awkward position because technically under the act it is the athletics commissioner that is responsible for both sides of the sport, the amateur and professional. By agreement with the Ministry of Tourism and Recreation, we have agreed that they will assume the responsibility for amateur sport. As I hope we can demonstrate in another line of questioning, Mr. Gray and his colleagues have put together an excellent program of regulation of professional sport in the province. The other side has been left entirely to the other ministry and Boxing Ontario is basically their vehicle for doing it.

**Hon. Mr. Elgie:** That is by agreement from cabinet, is it?

**Mr. Crosbie:** Yes, it is.

**Mr. Breithaupt:** But the legislation, as such, is not as clear.

**Mr. Crosbie:** That's right.

**Hon. Mr. Elgie:** I have already spoken to the Minister of Tourism and Recreation (Mr. Baetz), and we feel that the legislation should be changed to address that problem.

**Mr. Breithaupt:** You are hardly being fair to Mr. Gray or to the commission to have everyone presume certain responsibilities if that is not the case.

**Hon. Mr. Elgie:** That's right. I agree.

**Mr. Crosbie:** Discussions are going on with the ministry now and there is a new reorganization and a new deputy. I have gone back on this question and hope to be able to resolve it. As the minister has indicated, perhaps the only fair resolution will be an amendment to the act that will clearly change the responsibilities for Mr. Gray so that he is not left on the front for areas where he is not really administering the program.

**Hon. Mr. Elgie:** Does Mr. Coleclough or Mr. Gray have any comments or questions?

4:50 p.m.

**Mr. Gray:** No, other than that there's one other amateur group in the province called the Ontario Amateur Boxing Association. When the amateur group was severed off from the Athletics Control Act, the Minister of Culture and Recreation at that time did not assume responsibility for the OABA. This is another amateur group. It's not as big as Boxing Ontario.

Last year they ran about 14 or 15 amateur shows.

Also, I think something has to be done to bring these two amateur groups together and amalgamate the two.

**Mr. Chairman:** That was the group that you and I had a discussion with about a year ago, wasn't it?

**Mr. Gray:** That's right. They are still operating.

**Mr. Chairman:** They are still operating, as far as I know, in the Cambridge area.

**Mr. Gray:** That's right.

**Mr. Chairman:** Generally speaking, haven't the two groups kind of agreed to disagree? Are some efforts being made to try to bring them together.

**Mr. Gray:** There is a committee set up at the present time which I assume everybody heard about, with Bruce Kidd, Bruce Stewart and Frank Corner. That's just one of the things they're trying to do, amalgamate the two groups and get them together.

**Mr. Chairman:** I have heard nothing from them since shortly after our discussions. Actually, the fellow that was contacting me on a continual basis moved out of town and the new man must be getting along fine because I haven't heard from him. No news is good news.

**Mr. Breithaupt:** Even with the two groups, they both follow this passport pattern and the rules are quite clearly applied to both of them in the same way, are they?

**Mr. Gray:** No. The OABA is not affiliated with Boxing Ontario in any way. I sanction all the shows. I supervise them and I pretty much fully control them.

When it comes to Boxing Ontario, at the present time I do sanction their shows, but most of the time they're after the fact. I don't like the idea of sanctioning something I don't really have any control over.

**Mr. Breithaupt:** Quite so.

**Hon. Mr. Elgie:** I don't think there is any argument that it has to be clarified very completely. I know that things have to be as tough as Clyde's trying to be, or tougher even, in the professional area.

**Mr. Breithaupt:** That's fine. I just think that from the press comment, and I know only what that set out, it seems to me that the direction and the responsibility given to Mr. Gray are not fair to him.

**Hon. Mr. Elgie:** I agree.

**Mr. Breithaupt:** I think that has to be attended to, to make sure that the job is done as I quite firmly believe he would want to do it.

**Mr. Coleclough:** We have some very real concerns because, when the original division occurred, I don't think the other ministry really anticipated what was out there in the way of amateur sport. We have run across in the past phenomena like the "so you think you're tough" competitions. They were in large part amateur. They were kind of pro-am. The gates were professional, but the fighters were completely amateur. They weren't the type of situations that the now Ministry of Tourism and Recreation ever contemplated controlling through amateur sport.

The reason we have some concerns about that now is that we have a new phenomenon in the province and it's something that we are addressing. We've drawn up draft regulations. It's called kick boxing. It doesn't quite fall under the definition of boxing.

**Mr. Breithaupt:** That's a south Asian sport?

**Mr. Coleclough:** Not completely. It's a combination, really, of traditional North American boxing and the martial arts, employing a kicking technique. In North America the kicking technique that is used allows the kicking technique to go to the body and the head. In other areas they have it where it goes to the legs and the entire body and head as well. Our style is strictly the body and the head.

We've drawn up a fairly comprehensive set of draft regulations. Once again, when we get our regulations in force, they will speak only to the professionals. We have a great many competitions in the amateur area that are being carried on now in a very dangerous fashion with virtually no control or medical supervision.

Some professionals out in the field have expressed some concern that if these competitions are not also controlled by government, they will tend to draw heavily and take away from the professionals who are governed and who will be under fairly strict regulations.

**Mr. Breithaupt:** When do you expect to have that in place?

**Mr. Coleclough:** We have a set of rough draft regulations which we are presently revising. We hope to have them before the regulations committee this month because we have a fairly major fight coming up in January. We want to be in the position to control that fight, so there is some urgency.

**Mr. Chairman:** Before we go any further, I would like to remind the committee that our two-and-a-half hours are up. We can sit here and continue the questioning on this, but we will have to take time off the two-and-a-half hours next week. We can finish with the delegation we have before us.

**Mr. Breithaupt:** I would hope we could complete both votes 1504 and 1505 because staff people have been very patient in waiting here. If we go over a few minutes, we will likely have less time next Wednesday. We no doubt can agree that we will complete these estimates next Wednesday at six o'clock, whatever time is available. I think it will probably work out quite fairly.

**Mr. Chairman:** Any other questions?

**Mr. Newman:** I am different from the others. I do not believe boxing is a sport at all. I think the whole purpose of the game is to knock the brains out of your opponent. That is the name of the game. The television dollar is essentially the reason for the game.

I am speaking from experience I have actually had. Mr. Gray may know the individual I am referring to—Johnnie Kubenic from the Windsor area—and the difficulty he had trying to have his problem resolved. The fact he had that much difficulty does not speak well for the control of boxing. You were not there at that time. You came in after Johnny Kubenic's problem originated.

It is not a sport. It is just entertainment and all kinds of gambling goes on among the spectators. I do not know how you can control it. I do not think you will ever be able to control gambling between individuals.

I could talk ad nauseam on this sport simply because I am biased. I have a biased point of view when it comes to two people getting in a ring and knocking their brains out. The Mancini fight on the west coast pointed out the bad features of boxing.

**Mr. Charlton:** Who was Remo fighting? That is why he is not here.

**Mr. Newman:** I was just wondering if you are going to attempt to exercise any control over the slugfests they have in taverns.

**Mr. Coleclough:** I appreciate your point of view. Boxing and kick boxing—any of these one-on-one sports—are termed as blood sports. Some people say they are not sports at all. They say it is strictly a bloodthirsty event. Others will defend it emotionally and say it is a sport that



calls for a high degree of skill. It is an emotional issue.

**5 p.m.**

I do not think we will ever solve the argument of whether or not it is a sport. There will always be that kind of argument and I think we have to recognize it is there. We have an option. For the ones who disagree with it being a sport, we could say: "Fine, it is not a sport. We are going to outlaw it. We are going to proscribe it. It is now illegal." Then we drive it underground. When we drive it underground, we have absolutely no control.

In this province we have taken boxing and we have raised it to the level of sport. The Kubenic situation would not occur in this province now. I think we have changed that situation considerably. We have been increasingly concerned with the safety of participants. We have brought in rather stringent medical regulations and officiating regulations. I do not think the Mancini fight would have occurred in this province. It was a mismatch.

I recently had the misfortune of attending the World Boxing Association conference in San Juan, Puerto Rico. It was almost predictable that a Mancini situation would occur there because their concerns were not directed towards developing a sport. They were simply monetary. We do not think that way in this province. That is why we want to bring kick boxing under control. We are very concerned about a situation where two boxers or two fighters can get into a ring and be completely mismatched. That is not theatre in the ring or sport; that is virtually murder.

If we can balance the skills, if we can make sure the medical regulations are there, if we can make sure the supervision is there, if we can make sure we do everything possible to increase the standard of safety for the participants, then I think we have done something worth while. Whether or not it is regarded by some as a sport, it is important that we have regulations and that we safeguard the participants. That is what we do.

**Mr. Newman:** I appreciate your comments and I know you are trying to do the right thing. I am just so biased over any type of athletic activity which involves knocking another individual senseless. Maybe I am old-fashioned in my approach, but I have gone through the athletic routine. I was probably involved in it before you were around in the earlier days. I

know the controls you are implementing today are going to have some effect.

I am more biased against it on the amateur level. These are young people who could go into any other type of athletic activity and would find it more financially rewarding and better for their health. I think the average boxer makes only \$300 a year when he is boxing for money. They do not necessarily get a permit from you; there are a lot of fights in Ontario that are not necessarily regulated by you people. There is no way you can find out about them unless someone comes along and reports it.

My real concern is not so much those who are in the professional field—maybe I am talking in the wrong estimates. I made these comments in the other estimates simply because I am very much biased towards it being called a sport. I am interested in protecting the younger folks. I do not want to see the Mancini-type of affair happen in Ontario or even happen among amateur athletes.

I think the province is wrong in promoting amateur boxing. I do not think it is the kind of sport we should condone. The minister, being a medical doctor, knows the harmful effects there can be from just one blow to the wrong part of the body. I could talk more, but rather than prolong the estimates I will complete my comments now.

**Hon. Mr. Elgie:** We do not promote it; we control it. We are not in the promotion business at all here. We are in the business of trying to regulate it.

**Mr. Newman:** Yes, you are in the business, but I can recall the Kubenic experience. That was supposed to have been controlled by the Ontario Athletics Commission but it was not controlled at all. That is ancient history.

**Hon. Mr. Elgie:** I think there are many people in this room—I am one who treated many of them—who know that some football players become paraplegic or quadriplegic.

**Mr. Newman:** The essential purpose of a football player is not to batter another individual senseless.

**Hon. Mr. Elgie:** But in terms of numbers, more people are permanently injured in football. I know there are more people playing. There are many sports that are offensive to a number of us but they are there. We have to try to make them as safe as possible.

**Mr. Newman:** I do not disagree with you.

**Mr. Gray:** There was a study done on sports in which fatalities occur and boxing is way down

the list. I think it is somewhere around seven or eight down the list.

**Mr. Newman:** Probably some punch-drunk boxer was on the committee that studied that.

**Mr. Chairman:** Are there any other questions of these two gentlemen?

**Mr. Breithaupt:** I wish Mr. Gray well. I just hope his duties and authority are more clearly spelled out so he can be allowed to get on with his responsibilities.

**Mr. Chairman:** Thank you very much gentlemen.

Vote 1504, item 2, agreed to. Agreed to.

Vote 1504 agreed to.

On vote 1505, property rights program.

**Mr. Breithaupt:** Mr. Chairman, I am quite prepared to let vote 1505 pass with only some questions. I realize the staff members have been waiting patiently. We did review Polaris, the province of Ontario land registration and identification system, at length and other aspects of this particular vote a year or so ago. I have a few questions to ask with respect to that, but they will not take a long time.

**Hon. Mr. Elgie:** Mr. Chairman, unfortunately, I have time problems. If you do not mind, can we get back to the few questions next week and

then carry on? It is up to you, but I do not have time.

**Mr. Chairman:** The minister has to leave for another function. We can do one of two things: we can have them back or we can carry the vote without their coming back.

**Mr. Breithaupt:** There are a couple of questions I want to ask on the Polaris project and also with respect to land registry methods in so far as the Cadillac-Greymac affair may influence developments there. Those are really the only two themes I want to discuss. Others may wish to discuss other matters. If we can agree, we will continue next Wednesday in whatever time we have to deal with the three remaining votes.

**Mr. Chairman:** Fine. We shall adjourn until next Wednesday at 9:30 a.m. At 9:30 we will do the Provincial Auditor. We will have next Wednesday afternoon also for the Ministry of Consumer and Commercial Relations.

**Mr. Breithaupt:** These estimates will continue after routine proceedings?

**Mr. Chairman:** After routine proceedings next Wednesday. However, the committee itself will reconvene at 9:30.

The committee adjourned at 5:09 p.m.

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 Taylor, J. A. (Prince Edward-Lennox PC)  
 Van Horne, R. G. (London North L)

### **From the Ministry of Consumer and Commercial Relations:**

Brown, M., Director, Theatres Branch  
 Coleclough, A. A., Chief Investigator, Investigation Section, Business Practices Division  
 Crosbie, D. A., Deputy Minister  
 Gray, C., Commissioner, Ontario Athletics Commission  
 McDonnell, W. R., Director, Ontario Racing Commission  
 Paradis, F. C., Secretary-Treasurer, Ontario Racing Commission  
 Simpson, R. A., Executive Director, Business Practices Division  
 Speight, D., Acting Director, Lotteries Branch













Ontario LEGISLATIVE ASSEMBLY

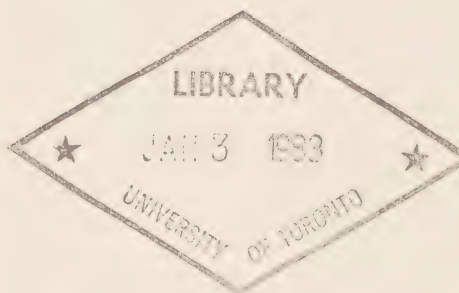
No. G-9

# Legislature of Ontario Debates

## Official Report (Hansard)

### Standing Committee on General Government

Estimates, Office of the Provincial Auditor



### Second Session, Thirty-Second Parliament

Wednesday, December 8, 1982

Morning Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

**Wednesday, December 8, 1982**

The committee met at 9:57 a.m. in committee room 1.

### ESTIMATES, OFFICE OF THE PROVINCIAL AUDITOR

On vote 1101, administration of the Audit Act and statutory audits program; item 1, Office of the Provincial Auditor:

**Mr. Chairman:** I see a quorum. We have three hours. Could we agree that we will be through at 12:30; three hours?

**Mr. Dean:** Yes, because they were really here at 9:30.

**Mr. Chairman:** Yes, the gentlemen were here at the appropriate time. If it is agreeable with the committee members, the three hours will expire at 12:30.

**Mr. J. M. Johnson:** John said it was fine.

**Mr. Chairman:** Are you speaking on behalf of John?

**Mr. J. M. Johnson:** Yes.

**Mr. Chairman:** John, did you know we were talking about you?

**Mr. J. M. Johnson:** I asked John earlier.

**Mr. Chairman:** We have one vote only, 1101, item 1. We have Mr. Archer, the Provincial Auditor, here, Mr. Otterman, the Assistant Provincial Auditor, and Mr. Gillis, the administrative officer.

**Mr. Dean:** Mr. Chairman, just one question: In view of the fact Mr. Samis has another appointment at 10, could I suggest that if he has any particular comments, he be permitted to make them right off the bat?

**Mr. Samis:** I do not, but I appreciate the offer.

**Mr. Chairman:** Are there any questions of Mr. Archer? Mr. Archer, perhaps you would like to make some remarks to the committee. This is your first year, is it not, for appearing before this committee?

**Mr. Archer:** Yes, it is. Thank you, Mr. Chairman.

Just briefly, I would like to formally introduce the other representatives of the office who are here with me. On my immediate right is Jim Otterman, the Assistant Provincial Auditor; on

his right is Ken Gillis, our administrative officer.

As Mr. Barlow has just mentioned, this is my first year, as Provincial Auditor. I have been with the Office of the Provincial Auditor for 11 years. Mr. Otterman is just completing his first year as Assistant Provincial Auditor and he has been with the office for about four and a half years. Despite his youthful appearance, Mr. Gillis has been with the office for 36 years. He has outlasted four Provincial Auditors and is currently working on his fifth.

**Mr. Dean:** What is behind that?

**Mr. Chairman:** I do not know if that is speaking well or ill of the gentleman.

**Mr. Archer:** I believe we gave the clerk a briefing booklet about a week ago, to try to give some background of the office. The content of that book is essentially the same as the briefing book we gave to the Board of Internal Economy last January when we appeared before them in connection with our estimates. We have attempted to update it to October 31 to make the information as current as possible.

Beyond that, we are at the disposition of the committee. We would be pleased to try to answer any questions that any of you might have. I would hope that collectively we would be able to come up with an appropriate response.

**Mr. J. M. Johnson:** On page 3 you make the suggestion that the auditor trainee position be raised to \$30,000 from \$26,500. Under the restraint program we have today, would you not be willing to consider that five per cent should be the figure we should live with?

**Mr. Archer:** Right. The preparation of this budget goes back to about a year ago now. At that time, market conditions were much different. We found it necessary to go to that figure in order to get people in the door. Today, market conditions have changed drastically and it would be very unlikely that we would have to go to that figure to attract the staff we need.

While we set our budget using that figure—it is sort of engraved in stone at this point—we would find it very unusual to have to use that figure in the current market.

**Mr. J. M. Johnson:** As one of the members of the committee, my recommendation would be



that since the government should set an example in all arms of the government, we should work in the five per cent maximum for this type of salary.

**Mr. Dean:** Just to follow that up, provided that Bill 179 with its present provisions becomes law, and I think there is no doubt it will, will that not automatically apply to this kind of provision?

**Mr. Chairman:** Having the auditor here, that would be a good place to start.

**Mr. Archer:** Our office will be governed by the restraint bill, the same as the rest of the government.

To clarify this \$30,000, we are talking here about a range. If you look at appendix G, we are talking about the auditor trainee range in our office. All of these people are hired on a contract basis.

These people come with a whole variety of experience; some come right out of school, some come right out of community colleges and others come from public accounting firms. They might have one, two, three or four years' experience when they come to us out of a public accounting firm. There is quite a broad range of backgrounds and experience and we have use for people with all of these types of background. To enable us to hire, we have a very broad range, going from \$14,000 to \$30,000.

You will notice the upper range was only \$26,500 the previous year. We found we were losing people or not getting people because they could get \$28,000 or \$29,000 somewhere else. We felt that if we could go as high as \$30,000, we could get a good person with three years' public accounting experience behind him into our office. That was the reason we requested the upper range on the hiring of auditor trainees be raised from the \$26,500 to the \$30,000.

I explained earlier, in answer to the question, that with market conditions the way they are, we would not have to go that high to get a person with three years' experience. The opportunities to go elsewhere just don't exist today, whereas a year ago he or she could probably go to two or three other places and get a better salary than the one we were offering.

**Mr. Dean:** I understand that, Mr. Chairman, but unless the \$30,000 was put in place before the restraint program was announced, doesn't this automatically come under its control and so we get the five per cent on top of \$26,500 perhaps but not up to \$30,000? Is that correct?

**Mr. Archer:** The five per cent would apply to the salaries that were in effect as of October 1.

**Mr. Dean:** It doesn't apply to a salary scale?

**Mr. Archer:** Well, indirectly. The salaries quoted here were subsequently increased by virtue of an economic revision that the government made as of April 1, 1982.

**Mr. Lane:** So you are saying the range is anywhere from \$14,000 to \$30,000.

**Mr. Dean:** That range is already in place, the \$14,000 to \$30,000?

**Mr. Archer:** Right. The actual salary range that applies to auditor trainees is in effect today. This came about as a result of the economic revision back in April 1982. The range goes from \$15,600 to \$32,800. That is the current salary range that applies to auditor trainees.

Now the five per cent you are talking about—

**Mr. Dean:** Excuse me, how do we get \$32,800 if the ceiling is \$30,000?

**Mr. Archer:** That was the ceiling at the time we prepared our budget. The budget figures are then automatically increased by any economic revisions. Perhaps Ken could explain that. In preparing a budget for the forthcoming year it is a practice to exclude any economic revisions you might anticipate.

**Mr. Dean:** I understand. I don't like to be tedious, but I haven't got a straight answer to my question. Do the ranges come under the control of the restraint legislation guidelines?

**Mr. Archer:** Yes, they do. What I'm trying to say is that the range that was in place at the time the bill will go into effect has a maximum of \$32,800. That upper limit will be subject to a five per cent economic restraint as a result of the bill.

**Mr. Dean:** It would have been more helpful, to give us the current picture, if we had \$32,800 instead of \$30,000. I know there is a footnote there that this doesn't include certain salary revisions, but we could have avoided all this jargon if it had said there, "current salary range \$14,000 to \$32,800."

**Mr. Archer:** We considered that, but we threw that proposition out on the basis it may have been confusing to do it the other way because our budget, which is what this committee is here to consider, our estimates, were based on the figures that are in appendix G, not on the figure we are now paying.

**Mr. Dean:** Let me suggest an even clearer way then. Leave the thing applying to the budget the way it is, but instead of this asterisk you've got,

say "current ranges are XYZ because of the adjustments."

**Mr. Archer:** Yes. We can certainly do that in the future.

**Mr. J. M. Johnson:** May I just continue? On appendix G you have 16 different classifications, and unless I am missing something, everything is the same with that one exception.

**Mr. Archer:** Yes.

**Mr. J. M. Johnson:** On the page before you have audit trainees, 28. You have a shortfall of six.

**Mr. Archer:** Actually, we are over in the audit trainees.

**Mr. J. M. Johnson:** Yes, you are over six.

**Mr. Archer:** Yes.

**Mr. J. M. Johnson:** That isn't going to be too relevant anyway. The only concern I have is that appendix G looks excellent, but there is one place it doesn't. That is the type of thing where people look at government and say, "You've gone beyond the guidelines," and they'll forget about the other 15 and zero in on the one thing.

Since you have extra staff now, why not have the whole page the same and avoid any problems?

**Mr. Archer:** I can't argue with that in the light of today's conditions. I guess all I'm saying is that you have to throw yourself back 12 months when the market conditions were different and the restraint bill had not materialized. We thought that if we were going to keep our staff and hire the number of people we needed to do the job, then we would have to offer more money to auditor trainees in some instances to get the really experienced people.

10:10 a.m.

**Mr. J. M. Johnson:** But the circumstance has changed, as you've said.

**Mr. Archer:** Today we don't have to do that, no.

**Mr. Eakins:** We might have talked about this last year. With respect to the staff you lose, those who leave for another position, is it mainly because of financial considerations or is it because of other challenges?

In other words, does a young person coming into the auditor's department see this as an opportunity for the future, or is it a stepping stone to something else, or is it a combination? Do you see the financial return as being the reason many new recruits leave?

**Mr. Archer:** It certainly is a consideration. If a person is competent, feels very capable and

has a good long-term potential, the outside world looks better to him, particularly if he wants to stay in public accounting. As a partner of a chartered accounting firm he is going to make a lot more money than he would, say, as Provincial Auditor, which is perhaps the top auditing position in the Ontario government.

**Mr. Eakins:** Is there an incentive for him to stay with the auditor's department, in other words, to make a career there? Can he or she see his or her way to work up into different categories and eventually, by working hard, become the auditor?

**Mr. Archer:** Yes. A number do that. As you see from appendix G, there are quite a number of positions an auditor trainee can work up to and they do pay very respectable salaries.

I think it's a matter of lifestyle. Some people feel that maybe \$50,000 or \$60,000 is not what they want as an ultimate salary return. They're looking more at \$100,000 or \$150,000. If that's their objective—

**Mr. Eakins:** They want to run for the Legislature then.

**Mr. Archer:** No.

**Mr. Eakins:** Do you have any particular recommendations in this area—maybe you have and I just haven't had a chance to review this—other than to make sure that the salary range is in line with the recruitment of people who are going to be with you for some time?

**Mr. Archer:** Certainly our salaries are competitive with the outside world, if I could put it that way, up through our audit manager level at least. We would hope that we could attract people on that basis and keep them at least until they get up to that level and in the process convince them that while there might not be as much financial remuneration in the government, there is certainly a career there, a lot of job interest and job satisfaction and a reasonable salary. If this is what they want out of life, we think we can provide it.

**Mr. Chairman:** Mr. Eakins, do you have anything else?

**Mr. Eakins:** I think that's all.

**Mr. J. M. Johnson:** Mr. Archer, if it's in order, I would like to ask you about an article appearing in the *Globe and Mail* or the *Toronto Star*—I forget which—pertaining to Dr. Chant. Apparently he is making close to \$100,000 and is considered the top paid civil servant in the province.

That income is divided into two or three

different categories. He is paid a per diem rate with the Ontario Waste Management Corp. Then he receives \$53,000 for another position, and then he does part-time work at the university. Is that a good way to run something of this nature?

The Ontario Waste Management Corp. has to be one of the most important bodies in existence at the present time. How to resolve the disposal of this waste is a serious problem, and that has to be a full-time job and it should be.

I would like clarification. There were certain comments made in the press which may or may not be true. Could I ask you your opinion of what Dr. Chant's position should really be? How should he be paid? Could you give me clarification of what you would perceive as the way we should handle this problem?

**Mr. Archer:** I would agree with your assessment that, on the surface at any rate, it appears it should be a full-time job. Maybe the best way to approach it would be to appoint a chairman and pay him a fixed salary, as opposed to a per diem on the basis of meetings or days spent working for the corporation.

However, on the other side, Dr. Chant not only is a very important man in his field, but he has other interests. He is very closely associated with the academic sphere so it might not have been feasible or possible for him to come to the corporation on a full-time basis, initially, at any rate. Therefore, they sort of have the best of both worlds by having him more or less part-time at the Ontario Waste Management Corp. and part-time at the university.

**Mr. J. M. Johnson:** I just can't accept that. Two years ago this could very well be true. At that time the government was under pressure to make some commitment and become involved in something of this nature and we ended up in the position we are today, but this should be in the past. Surely in the case of a man of his stature and the position he holds, it should be a full-time job and not a per diem rate. It's just not reasonable.

Your job is a full-time job. Most of the other people who work in and around this government are full-time. I really feel that we're not receiving the best service we should from the setup we have. Maybe I'm wrong, and I stand to be corrected, but would it not be a recommendation from the Provincial Auditor as to whether this is a good setup?

**Mr. Chairman:** Isn't it the auditor's position to draw this to the attention of government?

**Mr. J. M. Johnson:** Really, Mr. Chairman, I was asking for clarification. I don't know what transpired, whether the press report is accurate or not. Perhaps you can advise this committee if in your opinion this is satisfactory. Maybe that is beyond your mandate. If it is, I will withdraw the question.

I am seeking some information for my own use and for the committee as to whether we should continue with the present system or whether we should suggest that it should be a full-time job; should Dr. Chant make a decision as to whether he wants to continue in this capacity or should we be looking for someone else who will devote his full time to it.

**Mr. Archer:** What I have just stated in answer to your previous question would be a personal opinion. As far as the position of the office goes, as the chairman has indicated, we bring the facts of the situation to the attention of the Legislature. It's up to the Legislature and/or the government to decide whether this is a workable arrangement.

I do not know, but Dr. Chant likely is not prepared to come to the Ontario Waste Management Corp. full-time. If that is the case, then the government will have to make its decision whether it prefers to have a man of his stature part-time or to get someone else full-time. Is he doing the job on the basis of part-time employment?

**Mr. J. M. Johnson:** When you say you bring it to the attention of the Legislature, maybe I am missing something, but I had no knowledge of this until I read it in the press yesterday. Did you report to some other committee?

**Mr. Archer:** No, the article in the press came out of our annual report to the Legislature.

**Mr. J. M. Johnson:** I don't have that. That's fine, Mr. Chairman.

**Mr. Chairman:** You can get the details from that, Mr. Johnson.

10:20 a.m.

**Mr. Dean:** When was that report submitted?

**Mr. Archer:** Our annual report was tabled in the Legislature on Monday. All members should have received a copy on Monday.

**Mr. Lane:** I have it. It came to my office on December 7.

**Mr. Chairman:** I received mine in my office on December 6. Check your mail, Mr. Johnson.

**Mr. Dean:** I didn't get mine yet either, unless it came this morning.



**Mr. Eakins:** Have you made a recommendation with regard to Dr. Chant, other than just reporting?

**Mr. Archer:** No, we haven't made any recommendation. We've just brought the situation to light and, in effect, we are asking the Legislature or the public accounts committee to take a look into it and indicate whether or not this is an arrangement they—

**Mr. Eakins:** Not having been that involved with that particular ministry, I wasn't aware of the arrangements, but I think it's rather revealing that with a salary like that one can hardly afford to work full-time. It's something that should be reviewed.

**Mr. Chairman:** Any other questions?

**Mr. J. M. Johnson:** I have a point of order for the benefit, I hope, of the committee and certainly for myself. Would it be possible next year for us to schedule the Provincial Auditor to come a week or two after we receive the report?

John Lane's report is dated December 7, which was yesterday. I haven't received mine yet. It's liable to be in my office. But even to have it arrive the day before doesn't give us a chance to go through it.

Would it not be more meaningful for the committee to have the report a week or 10 days prior to having your people appear before the committee?

**Mr. Chairman:** Mr. Johnson, we could well have reviewed the estimates prior to receiving this report if we had kept to our original schedule. The purpose of this review here is to review the estimates of the auditor.

**Mr. J. M. Johnson:** Not relating to this?

**Mr. Chairman:** No. It is not the purpose of this committee specifically to review this report. The public accounts committee is responsible for reviewing that.

**Mr. Eakins:** It looks as if the ministry mail is slower than the federal post office.

**Mr. Chairman:** Maybe it's coming by Canada Post.

Are there any other questions on the estimates?

**Mr. Eakins:** I'm not quite sure whether it's in line with the estimates or whether it comes under the auditor's report; I was going to ask about the auditor's recommendations on ministries being carried out, what the general co-operation is.

Do you find that from one report to the next you can see a change in your recommendations being carried out to the time you report again?

Is that a fair question under discussing the spending estimates of your office, or should it be placed at a different time?

**Mr. Archer:** Technically, I suppose—

**Mr. Eakins:** It's not.

**Mr. Archer:** —it could be asked at a different time, but we're prepared to answer. Generally speaking, we are satisfied with the attention paid by the ministries and the agencies we audit to the recommendations we make. There is an appendix in our annual report which attempts to follow through on all the recommendations that we make and indicate the disposition that was made of them.

The ministries and agencies do not always accept our recommendations. Quite often they have good reasons for not doing so. Generally speaking, they do fully consider them and in most cases they do adopt them.

**Mr. McKessock:** I'm new on this as far as the Provincial Auditor's estimates are concerned, but I would just like to get a bit of information as to what your job is. Do you act as an auditor for the government the same as an auditor does for any individual company? Is it similar?

**Mr. Archer:** Yes. We are the external auditors for the government.

**Mr. McKessock:** What's your mandate in terms of recommending to the government or suggesting that things are wrong? I know my accountant will tell me as a businessman things that look out of place or if changes should be made. I suppose with respect to the government you have that same mandate as my accountant would have to me. You are really the government's accountant.

**Mr. Archer:** The government's auditor, yes.

**Mr. McKessock:** Does the act state what your mandate is in so far as recommending to the government or outlining the areas where you feel they have gone wrong?

**Mr. Archer:** The act clearly states what we are to examine and what we are to report. It does not really get too much into the recommendations for change or improvement. That comes out as more of a professional responsibility.

If we identify a procedure as being wrong or if there is noncompliance with this or that, we should recommend a way for the ministry or agency to improve its performance in that regard. Consequently, most of our findings or audit observations of a critical nature will be supplemented by recommendations as to how we think the ministry could do the job better.

**Mr. McKessock:** Since I came in here seven years ago the provincial debt has always been my great concern. As auditors of the government, you could see the government going into debt continually every year, I guess, for the last 10 years. It seems to me that people say every government is doing it and so on, but two wrongs do not make a right.

What are your recommendations to the government? Do you feel it is justifiable to continue not balancing the budget? I know as a businessman I cannot go on indefinitely not balancing the budget or I will go broke.

**Mr. Archer:** The auditor does not criticize government policy. We audit a policy that is decided.

**Mr. McKessock:** But is going deeper into debt and going broke a policy?

**Mr. Archer:** That is set out in the government's budget year after year. We feel that the forum for discussion or criticism of that policy is really in the budget debate. The government members and the opposition members at that point should be taking the government to task if they feel it is unduly going into debt or spending more than it is collecting. For the auditor to come along and just confirm that the opposition, for example, disagrees with this policy, I do not know if that is going to serve much purpose.

**Mr. McKessock:** I am still putting you in the light as my accountant, who would quickly bring it to my attention if I was going in the wrong direction. I would think that going deeper and deeper into debt and not balancing the budget would be an auditing thing more than a policy. I cannot get it through my mind as to how that can be policy.

I think that when you are auditing the books you would feel that the financial management here leaves something to be desired and that that should be pointed out.

**Mr. Archer:** It is not as though this has happened and no one knows about it. It is laid right out in the budget before the year starts that they are going to go \$2.2 billion, or whatever it is, in debt. It is not for the auditor to come along after the fact and say he does not think that is prudent management. If it is not deemed to be prudent management, the route then is in the budget debate, as I say, for the Legislature to have the government explain.

**Mr. Chairman:** I suppose every four years the government is under review through the overall shareholders of this province.

**Mr. McKessock:** Isn't anything you bring up more or less after the fact? What do you bring up that is any more viable to state than the fact that the government's direction in financial management is not right? What else can you bring up?

**Mr. Archer:** We are commenting on the way they are administering government policies, on the way the ministries and agencies are administering the resources of the province.

10:30 a.m.

**Mr. McKessock:** Can you tell me, for instance, what was brought to their attention this year? We were talking about Chant's wages. I suppose that is one thing that leads to better financial management.

**Mr. Archer:** One that was mentioned in the Legislature yesterday was the expenditure on the Future Pod at Ontario Place.

**Mr. Eakins:** That is right, no calling of tenders.

**Mr. Archer:** Yes.

**Mr. Eakins:** I have not had a chance to review it, I wish I had. What was your comment on that?

**Mr. Archer:** Our comment was that they spent this money without getting tenders, which we feel is not a prudent management of the province's resources. There are any number of comments of that nature in this report.

**Mr. Eakins:** If I might ask a supplementary, do you see a fuzzy area between your responsibilities as the auditor and the policies? I can appreciate what you are saying; it is the prerogative of the government to say they are going to spend so much money and your job is to make sure that it is well spent.

**Mr. Archer:** Right.

**Mr. Eakins:** Do you see a fuzzy area in that relationship that you might comment on?

**Mr. Archer:** Generally speaking I don't, although from time to time the auditor may get into commenting on policy. Where do you draw the line?

We say that we do not comment on what the government decides to do. We comment on how they go about trying to do what they say they have decided to do. We are looking at the administration of the policy, rather than the setting of the policy and whether that policy was right in the first place. Sometimes we may cross that line and we get accused of this by ministries.

For example, last year I think we had some comments in our report about the women's

affirmative action program, and we were accused by the ministry there of getting into an area of government policy. So there is a fine line in some cases and we maybe cross it occasionally, but by and large, we do not have a lot of difficulty in separating what we deem our role to be as opposed to the clear policy-setting role of the government.

**Mr. McKessock:** What about last year when the government borrowed money at 15.75 per cent for the next 30 years? They are tied into that for 30 years when interest rates now are less. Was that good money management?

**Mr. Archer:** In hindsight it is not, but you have to look at it from the standpoint of the circumstances at the time they did it.

**Mr. McKessock:** It was hard to borrow money for any more than a year at a time, and yet there is money tied up for 30 years.

**Mr. Archer:** You would have to look at the long-term forecast at that time, versus the short-term, and come to a decision as to whether that was a prudent decision.

**Mr. McKessock:** If you were buying a new house last year would you have put a mortgage on it for 20 or 30 years?

**Mr. Archer:** At 15 per cent last year? I may well have, because the rates at that time had been up as high as 20 or 22 per cent.

**Mr. McKessock:** Yes, but maybe we are not being fair by saying that, because the government in borrowing millions of dollars can get it at a cheaper rate. But in making comparisons maybe we should stick to housing mortgages. Would you have tied yourself into a 20-year or 30-year mortgage on a house last year? Was it a good time to tie up money for 30 years?

**Mr. Archer:** I find it very hard to answer that question now because of the events that have transpired in the past 12 months, but at that time I think I may well have. Thirty years might seem a little long; 20 years doesn't seem to bother me at this point. I may well have bought a house if I could have got a mortgage for 20 years at 15 per cent.

**Mr. McKessock:** Yes, but I think again, we should not mix government borrowing rates with housing mortgage rates. I am saying that maybe one comparatively should stick with the housing and with the government. If it was wrong for housing then maybe it was also wrong for the government at that time.

**Mr. Archer:** The alternative would be to go out every year for 15 or 20 years and borrow at

the current market rate. You are asking if that would have been better than getting it for 20 years at a stipulated rate. Who's to say?

**Mr. McKessock:** I am not saying one year at a time is the alternative—maybe this year you could tie it up for 30 years for less money—but wait until the time is right to tie it up for 30 years.

**Mr. Archer:** Who is to decide when the time is right? Last year the decision may have been that the time was right.

**Mr. McKessock:** It certainly wasn't for housing. The guy who was buying his own house showed us that. He wouldn't do it.

I am also saying, on the other scale, that I would have thought the government would have showed us it was not the right time to tie up money for that many years. I was wondering if it was in your jurisdiction to suggest that.

**Mr. Archer:** I don't know that we did, but we could have looked at that situation in the light of the conditions existing at the time the government made the decision, and asked ourselves whether that was a prudent or wise decision in the light of the information available.

If we concluded, from an audit standpoint, that it was, then we would not comment. If we concluded that, no, they did not have enough information or the information they had just was not accurate, didn't go far enough, for example, then we would have commented in our auditor's report that in our opinion it was not a good decision.

**Mr. McKessock:** What bothers me is that taxes keep going up, and there is inflation, and of course people get sick and tired of paying more and more taxes and it takes away their incentive. Can we not somehow get this stopped and at least balance the budget on yearly terms, and at some time think about getting rid of the debt?

It bothers me that each year we go deeper in debt. Even if we stopped right now and balanced the budget each year we have a big problem on our hands. We are not even doing that. We are not stopping; we are not starting to balance our budget.

**Mr. Archer:** The type of question you are asking me seems to be the type that should be asked in the budget debate.

As a personal opinion it seems to me you will have to cut back on the expenditures if you are ever going to balance the budget. Where do we start? Who is prepared to cut back each program? Certainly in any attempt to cut back on



hospital or welfare expenditures the media are all over the government.

**Mr. McKessock:** It seems to me, if there was a policy that said, "The government balances the budget each year and if the taxpayer wants more then we know where it comes from, it comes from the taxpayer," then there might not be so many demands on the government for various programs.

Now it seems to be, "Oh well, the government will go out and borrow it anyway so it doesn't matter, our taxes won't go up." We seem to be led into a false sense of direction.

**Mr. J. M. Johnson:** You people keep on asking for more and more.

**Mr. Eakins:** We talk about restraint, Jack. You know that.

**Mr. Dean:** That is the point. People do keep asking for more and more because—

**Mr. Eakins:** That is why governments are elected. That is why this government was elected, because they promised more and the people voted for them.

**Mr. McKessock:** Exactly. People think there is no end to—

Interjections.

**Mr. McKessock:** No. You hear me saying it here. I don't tell them they can have everything. I think it is ridiculous.

**Mr. Dean:** Mr. Chairman, it is very interesting that almost every individual says, "For heaven's sake, stop this spending, balance the budget, cut taxes, but"—but—"my program, my project, the thing that affects me, is sacrosanct."

**Mr. Chairman:** "Don't cut my share."

**Mr. McKessock:** You may have heard me speak about the Wintario program. That is not taxpayers' money.

**Mr. Dean:** No, that is a voluntary tax.

**Mr. Lane:** On the same line as Mr. McKessock, I certainly have some of the concerns he has expressed. I have to ask you, sir, is it not quite a different thing to be an auditor for a government than an auditor for a company?

**Mr. Archer:** In auditing for a company, you have your assets and your liabilities and you balance one against the other. The problem is though that in a great many things, in dealing with the taxpayers' money, if we were to put a price on the roads and bridges and schools and police stations and ferry boats and aircraft and all the rest of the things we own, it seems to me that the report would look a great deal different.

Maybe you would have a lot more assets than liabilities.

**10:40 a.m.**

That always seems to me to be the difference between what Bob is saying, that if he were running a business and his auditor did not tell him this he would soon be in trouble—we never show the assets, because we can't sell them, but they are there, we have paid for them.

**Mr. McKessock:** We run into times like these when businessmen and the farmers soon find out how useless assets are; they have been cut in half since last year. So you can't just draw on assets being—

**Mr. Lane:** I still think it is worth mentioning, though, that we have all these assets but we are really not saying, "This is worth X number of dollars." We are looking at our liabilities, but not at our assets.

The other thing related to the same question, I suppose, is that if the clock could just be stopped now, today, at this hour, and our revenues were to continue to roll in for X number of months, and we didn't spend any money, we would probably get out of debt a hell of a lot faster than most companies would, because it would only take a few months, with the income we have, to pay off all our debts. Is that not right?

**Mr. Archer:** Right.

**Mr. McKessock:** It would be a great thing if you could stop the clock.

**Mr. Lane:** A company can to some degree, but a government can't. This is the difference I am talking about.

**Mr. Archer:** On both the points you make: about the amount of money invested in fixed assets, which are written off on the government's books, whereas in most businesses they would be set up and therefore would not appear as part of the net debt figure—there was a section of the budget last year that purported to maintain that the excess of expenditure over revenue, I believe over about the last five-year period, was pretty well balanced off by the government's expenditure in fixed assets.

If one took the view you just did, Mr. Lane, that there is really no net debt, that it is represented by expenditures and fixed assets, I think there is some validity in that. We didn't attempt to audit that particular section in the Ontario budget to see if the figures really stood up or not, but certainly the point that was made has, I think, some validity.

Also the budget did go on to explain the net debt in terms of the number of months' revenue that would be required in order to retire that debt. It again purported to indicate that they were no worse off—in fact I think it made them slightly better off—on that basis than they had been in many years in the past.

It is all in your point of view. Some people are caught up with this balance-sheet type presentation of recorded assets versus recorded liabilities, the difference being the net debt of the province, which I think is something like \$13 billion or \$14 billion right now.

**Mr. Lane:** Just to take that one step further, if I were raising beef cattle, say, and I had 1,000 head of beef cattle, and had a big loan at the bank, I could simply stop buying cattle and, it is to be hoped, sell the cattle and pay off the debt. The government can't stop the process because it has to provide the services to people who are depending on that cheque for their livelihood or whatever.

What I am trying to get at is the difference between being an auditor for a government and the statement that you put out, as opposed to being an auditor for a company or a business. You have that column, and also governments can't stop the clock, whereas a manufacturer or a farmer or someone in business for himself can, in a way, stop spending money and let it catch up with itself.

**Mr. Archer:** I do not know if that affects the work of the auditor too much.

**Mr. Lane:** It was just a comparison that Mr. McKessock brought up. I have always said to myself, "Why don't we claim something for some of the things we have done over the last 25 years, because we have millions in assets out there, but they never show up anywhere?" We use them every day.

**Mr. McKessock:** You have a good point. I should like to put another thing on top of it, from me as a farmer.

This fall I did sell off my cattle—the normal surplus—to pay off the bank. That wasn't enough this year though, so I had to cut into my capital assets. I sold 20 breeding cows and their calves, which I should have been keeping. I did that to lower my debt at the bank. In these times, that's what all businessmen are doing.

I look at the government, with the assets Mr. Lane just mentioned. Isn't this the time for the government to sell off some of its assets and lower its debt or whatever too? If it's good for

business, I can't see why it isn't good for government.

As we mentioned a while ago, government has been borrowing money for a 30-year term at high interest rates. I tend to think running a government and running a business are similar. Some people get upset at you when you do that, but it should be run like a business.

**Mr. J. M. Johnson:** Do you want us to buy a school or a hospital?

**Mr. McKessock:** I don't even want to buy Suncor or Minaki Lodge, but—

**Mr. J. M. Johnson:** You are just using a couple of isolated cases.

**Mr. McKessock:** Well, I would try to get a buyer for them, if I were you.

There are some things the government has that could be sold to bring in revenue. There are a lot of land holdings.

I feel government should be out of private business anyway. Let the private sector look after the business end and let government look after services to the people. Whatever the people are willing to pay for, that's what they should get. I can't agree with governments going into debt, not to the extent they are.

**Mr. Lane:** But you are arguing against yourself here—excuse me, Mr. Chairman. You are saying that last year wasn't the year to take the long-term loan, at whatever the rate of interest was, and yet you're saying we should get rid of our land holdings. Yet it is not the right time to sell them because the prices aren't right and the demand is not there. So you are arguing against yourself.

**Mr. McKessock:** Not really, because—

**Mr. Eakins:** He's not saying when to sell them, he's saying in general to dispose of them.

**Mr. McKessock:** I'm talking about when you're going to have to borrow money. During a period of high interest rates, you should do it on a short-term basis. When it comes to assets, sometimes it just makes more sense to sell them and stop paying interest.

That's what I did. I got rid of that high interest rate. When you work it out on paper, with the beef situation, I made as much money this year by selling half my herd as I would have by keeping it all. That sounds ridiculous, but when you figure in the high interest rate, that's the way it worked out.

**Mr. Eakins:** So you are saying to the auditor, have you made recommendations in your report that certain areas should be disposed of? Was it

within your mandate to say land banks or things like that should be disposed of, or do you consider that part of your responsibility?

**Mr. Archer:** I don't feel it's part of our responsibility to do that, but I don't think we would be ruled out of order if we suggested that as a possibility.

**Mr. Eakins:** You might review it?

**Mr. Archer:** Yes.

**Mr. McKessock:** Accountants and bankers are making these suggestions to businessmen today, and have been for a few months.

**Mr. J. M. Johnson:** Supplementary to that, the line of attack that Bob is using is quite interesting. I remember reading an article six or eight months ago about a city in Nevada, or in one of the southwestern states, where the city decided to sell its roads and streets. They would sell a street for housing. Are you aware of this?

**Mr. Archer:** I'm not aware of that.

**Mr. J. M. Johnson:** I'm just wondering if that was the idea Bob wanted to pursue—that we should start selling off the roads—

**Mr. Eakins:** He's talking about land banks and things like that.

**Mr. J. M. Johnson:** It makes good sense.

**Mr. Dean:** Let's sell off Highway 6. It doesn't go anywhere anyway.

**Mr. Lane:** Mr. Chairman, I had another trend of thought here.

**Mr. Chairman:** Well, Mr. Eakins has a question. Is yours a new area too, Mr. Eakins?

**Mr. Eakins:** Mine's a new area.

**Mr. Chairman:** Carry on Mr. Lane.

**Mr. Lane:** I was just looking at the briefing notes and I noticed on page 7 you've set aside only \$13,000 for staff to attend conferences in various locations. This would seem to me to be a small "c" conservative figure.

I get a little disturbed sometimes—I do not know if you people have any concerns in this field or not and this may be too broad a question to ask you—when I travel and attend certain openings and other functions, and I see so many civil servants at that function or on the airplane, or whatever. I sometimes wonder what the hell goes on.

10:50 a.m.

Are we not spending too much money for these guys to be going some place all the time when basically their work is to make it happen and the politician's place is to be there when it does happen? I am just a little concerned and I

wonder if the auditor has any concerns about the amount of money that is spent in travelling in that field.

**Mr. Archer:** We have commented from time to time—in our audits of ministries in particular—on conference expenses, not so much from the standpoint of too many people attending, although occasionally we do question the numbers, but more from the standpoint of where they hold them. There seems to be a tendency to get away from Toronto. I guess you can argue that you have to get away from the scene in order to concentrate on the issues at hand.

But on travelling distances and incurring hotel expenses, quite often we comment on the entertainment or hospitality aspect of conferences. There seems to be quite a bit of liquid refreshment served from time to time. Our criticism has been more in that area than who should attend and the numbers attending. That is a very judgemental thing and, as long as the proper approvals are obtained in the ministries for X number of people to go, we have to rely on the judgement of those people in saying, "Yes, we think these people are going to benefit from attendance at this particular conference."

**Mr. Lane:** I guess I belong to the old school too much. I have always maintained that if there is a cheaper way to travel, that is the way I should travel, rather than going first class. I always felt that if we were doing a government project, we should do it with the fewest dollars possible.

Sometimes it seems there are more people involved than is necessary. That is really the point I am trying to make.

**Mr. Eakins:** When you comment on certain areas, do you travel to look at these particular areas? Suppose you are going to report on a particular operation of a city, do you do it strictly from just a financial aspect or do you ever go to look over that operation in a visual sense?

**Mr. Archer:** For the most part, we take it from the evidence which is available in the ministry or the agency, although on occasion we do go out and visit the sites. Perhaps Mr. Otterman could talk about that. We did a considerable amount of that with the Ministry of Municipal Affairs and Housing last year or the year before.

**Mr. Otterman:** Yes. For example, in the audit of Ontario Housing Corp., 90 per cent of their operations are carried out by the housing authorities across the province. We do a test basis sample of those housing authorities and visit



approximately four to five of them a year. We get to see the buildings—

**Mr. Eakins:** In what sense; to see the operation or—

**Mr. Otterman:** At the site, you would be checking all the financial and related records, and the conditions of the building from an operational nature. You would visit some of the buildings they have under their authority in that area to check the maintenance, security and this type of thing. So it does go beyond the straight financial checks.

In the Ontario Mortgage Corp., for example, they were taking back many properties under quit claims and they had people walking away from their properties. We went out to look at the condition of those buildings to get some feel for the values they had these recorded at in their accounting records.

**Mr. Eakins:** Does Minaki Lodge Resort Ltd. come under your jurisdiction? I have just been reading here something about subsidiaries of crown agencies; I was just wondering if you report on Minaki Lodge.

**Mr. Chairman:** It was commented on in the report, Mr. Eakins. It was raised in the Legislature yesterday.

**Mr. Eakins:** I missed that part of the question but I have not had a chance to review it ahead of time like some of the others.

**Mr. Archer:** We do not do the audit of Minaki Lodge Resort Ltd. The comments we have are on the expenditures of the government with regard to the lodge and the ancillary facilities leading into the lodge.

But there is a Minaki Lodge Resort Ltd. and a Minaki Development Co. Ltd. We comment on page 105 of our report that they are subsidiaries of the Northern Ontario Development Corp. We audit the Northern Ontario Development Corp., we are required to under the act, but we do not audit the subsidiaries of that corporation. They are audited by public accounting firms.

**Mr. Eakins:** Would you feel you had the responsibility to visit what we know as Minaki Lodge? Would you have occasion to visit it?

**Mr. Archer:** We have not visited Minaki Lodge for the type of information we have been providing to the Legislature, this year in particular, which is just an information section. There is nothing really critical involved. We operated strictly from the records maintained by the agencies and the ministries in the government that are involved with Minaki Lodge.

**Mr. Eakins:** So it would be difficult for you to be critical of the spending of the lodge then?

**Mr. Archer:** Of the lodge itself? You mean the maintenance and the operation of the lodge itself?

**Mr. Eakins:** The operation of the lodge. Would that come under your reporting?

**Mr. Archer:** No. The money was transferred out for the building of the lodge. For example, the renovations of the lodge—

**Mr. Eakins:** Everything associated with the lodge is government spending, is it not?

**Mr. Archer:** But I think you are talking about once the lodge gets operating, which it is expected to in the spring—the operational aspects, the income and expenditure related to the operating of the lodge would not be reviewed by this office. It would be reviewed by the accounting firm that audits that lodge.

**Mr. Eakins:** But have you not been involved to date in the operation of Minaki Lodge?

**Mr. Archer:** Not in the operation of the lodge per se. It has been closed for quite a number of years. It has been undergoing renovations.

**Mr. Eakins:** It is a new operation now. It is still called Minaki but really it is not the Minaki Lodge we know. It started out as \$500,000 to protect the investment. A few million was spent to do something, then it was stopped, and now \$40.4 million or \$40.8 million is spent in the development of what we know as Minaki Lodge. It is a different concept now.

**Mr. McKessock:** It is called "Dollars Unlimited" now.

**Mr. Eakins:** It is a different operation. I am just wondering what comment you would have, as the Provincial Auditor, with regard to the money spent and how it is spent.

**Mr. Archer:** On the development?

**Mr. Eakins:** On the development. I can appreciate there will probably be other auditors looking at it once it is in operation, but to date it has been government dollars spent on getting it to this stage. I am just wondering what your involvement is.

Is it your responsibility to report on the money spent on developing it to this state, from the half a million dollars to protect the investment up to \$40.4 million or \$40.8 million, whichever it is?

**Mr. Archer:** We have commented on Minaki Lodge in our auditor's report for a number of years, you will see if you look back through

previous auditors' reports. It has also been a subject for review on several occasions by the public accounts committee of the Legislature.

This year, other than auditing the expenditures the ministries are making, to make sure they were properly controlled and properly authorized and so on, all we did was update for the benefit of the Legislature the current spending and expected total spending by the time the lodge opens in the spring of 1983.

That was really the extent of our review this year. The purpose of putting it in the auditor's report was one of information to the Legislature. We were not, at this time, criticizing it. In the past we have had critical comments regarding Minaki Lodge.

**Mr. Lane:** As a northerner, I want to defend the north a little bit here.

**Mr. Dean:** We have never heard you do anything else.

11 a.m.

**Mr. Lane:** Minaki Lodge has been the whipping boy for a lot of people for a long time. What difference is there between Minaki Lodge and Ontario Place? That is a place where people from the south can go.

**Mr. Eakins:** I do not want to cut in, but with respect, Ontario Place is open at a reasonable rate to all the citizens of Ontario. If you are going to visit Minaki Lodge, you are going to have to spend \$85 for a night.

Who can go and take his family to visit Minaki Lodge? It is not available. It is only going to be available to the people who have money and it is going to be the upper echelon. You can take your kids to Ontario Place for a reasonable number of dollars and access is open to the people. Certainly Minaki Lodge is—

**Mr. Lane:** It will be.

**Mr. Eakins:** Only if you have the money to stay there.

**Mr. Lane:** Some people have the money to stay, they want to spend it and they are spending it someplace else. We talk about money being spent out of the province; we have people who like to spend big money who probably would go. I am not saying they would, but I am not saying they would not.

**Mr. Eakins:** But you cannot compare it to the museum and to Ontario Place. They are two different operations.

**Mr. Lane:** Maybe we will both live long enough to see it a profitable operation. I am not too sure that it will not be in the long term. Also,

in this case the government has to make a choice whether to lose its investment or to add to it. The choice that is made might be a wrong one, but—

**Mr. Eakins:** It sure added on to it.

**Mr. McKessock:** It started at \$400,000, didn't it?

**Mr. Lane:** It has been used out of proportion over the years.

I heard this happened when I first came here. With norOntair service up north, they were trying to provide transportation from one small town to another, but it was pretty costly and there was heavy subsidization involved. The people across the way were continually telling the government what a white elephant it had.

That is no longer ever said, because it has been proved not to be a white elephant. I am just wondering if maybe this might not be the same situation.

**Mr. Eakins:** But norOntair provides transportation, and we are talking about a different operation that is not going to be available to the average citizen of Ontario. That is why I wanted to ask the auditor about his involvement in the auditing of it.

**Mr. McKessock:** In every paper you pick up this last four or five months, columnists and accountants have been saying, "Sell off any of your assets you do not need, any that are not productive." I do not mean roads or my cow path down to the back pasture.

I was wondering if you ever thought of making a list for the government of assets they could sell off to put them in a better financial position.

**Mr. Archer:** We have never done that. I suppose it is feasible that we could list the saleable assets. The majority would not be readily saleable, but there certainly would be some—the land banks which were mentioned. We could attempt to do that.

**Mr. McKessock:** I would certainly appreciate it if you would do that in your next year's auditing and see how it would be accepted.

**Mr. Eakins:** Do you want to include Bud Gregory's car in that?

**Mr. McKessock:** That could be part of it.

**Mr. Dean:** I just have a brief question about the report, where it talks about the acquisition of a microcomputer. It sounds to me as though it is a good idea.

I would be interested to know if this will be compatible with all the other provincial com-

puters that are around—I presume it would—so you can hook into their system. I know the Ministry of Education is concerned that as computers get out into the schools they be compatible with one another and with the provincial system. I would presume that would be one of the things you are looking at.

**Mr. Archer:** Yes. We are already hooked in with the Queen's Park computers. We use the microcomputer for some of our audit activities, to select information off the data obtained by the Queen's Park computers.

**Mr. Dean:** This one would be in addition to what you already have then?

**Mr. Archer:** No. There is a facility with the microcomputer to hook in with other computers, and we are using that for access to the Queen's Park computer facility. The point is that it is compatible with the equipment we are interested in within the Ontario government.

**Mr. Dean:** Do you feel that the state of the art is at such a point that whatever you get is not going to become obsolete within the next two or three years?

**Mr. Archer:** Certainly it is a rapidly advancing field, and what you have today will be out of date, or at least there will be something better on the market, six months from now. While there may be something better, I think what you have today will probably do the job you want for some time to come.

**Mr. Dean:** This is a little bit off the point of your estimates, but do you have a general feel in your review of the government's operation in general that the use of computers is astute rather than just a fetish?

**Mr. Archer:** We are currently in an electronic data processing or computer review mode in the office. One of the reasons for that is the public accounts committee has become quite interested in computer usage by the Ontario government and we have undertaken four studies of ministries' EDP facilities at the request of the committee. In addition to that, we have done a number of our own and there are two or three mentioned in this year's auditor's report.

As far as large school computer installations are concerned, we have not seen any fetish for just obtaining the latest or the best. In the smaller areas, microcomputers and minicomputers, I think there are a number of areas where they have just gone on their own and got equipment when it may be a little questionable why they really need it or, second, the type they

got is far more advanced than the equipment they really need.

**Mr. Dean:** Is there any way in which—again I am sorry for straying a bit off the subject—some branch of the government, such as Management Board or somebody, could give us a hand on this?

**Mr. Archer:** Yes. Management Board has a branch that is attempting to provide some control and guidance in this area. There is certainly room for improvement. They recognize that there is room for improvement in controlling the burgeoning EDP expenses of the government. They are certainly working on it and we are working with them.

**Mr. Dean:** Thank you. It is encouraging to hear that, because you can get caught up in the enthusiasm of something just because you have got a good salesman around or some colleague who says, "Oh, boy, you should see what we can do with item X," when maybe you do not need item X because you are not doing that much or something. I do not want this to be construed as a criticism of moving to computers because I am convinced we have to do it.

**Mr. J. M. Johnson:** I have a couple of comments. One, I would like to congratulate the auditor and his office group for their conference expenses. I believe \$13,000 was the sum set aside. I went over the list and it is an excellent list. You stayed within Canada except for a few small trips to the United States with very small numbers. That is excellent.

I would like to ask about the merit increases on page 4. You have approximately 100 employees and you have rated them exceptional, very good or good, eight, six and four per cent respectively. Are there any classifications below good? Do you have such a thing as not so good or lousy or anything like that?

**11:10 a.m.**

**Mr. Archer:** If they are not good, in other words if they are just average or below average or poor, as I think are some categories you hear mentioned from time to time in the civil service, they do not get any increase at all. It is zero per cent.

**Mr. J. M. Johnson:** Of the 100 employees, just roughly how many would fit into the three classifications?

**Mr. Archer:** If you take our regular staff, from which you have to subtract the 34 students we have, you are talking of roughly 60 to 65 people.

We had 27 people who were eligible for a



merit increase, in other words who were not already at the maximum of their salary classification, as of April 1, 1982. So far this year, we have considered 18 of those 27 for a merit increase. If you are interested in a breakdown of those 18, three of them whom we rated at eight per cent are exceptional. Nine of them whom we rated at six per cent are very good. Four we rated at good, and two of them we rated at less than good, with zero per cent. That makes a total of 18.

Now the restraint program is coming in we still go through the exercise of evaluating the performance of the individuals. However, because of the \$35,000 limitation, no one will get a merit increase if his salary is at or above \$35,000. So for anyone, say, at audit manager or possibly audit supervisory level earning \$35,000 or more, as of September 21 or whenever it was, we may well rate his performance at six or eight per cent, but he will not get any money. We still go through the exercise, however, of rating their performance.

**Mr. McKessock:** Does the government do that in the various ministries? Is it rated the same way?

**Mr. Archer:** Yes. They do give increases for less than good, shall we say. A person could be below average but maybe get two per cent in many ministries of government. If you know the public accounts committee at all, that is one of their recommendations and one of their complaints over the years. They cannot see why anyone should be rewarded for average or less than average performance. In our minds that is a reasonable premise.

In the last two or three years we have adjusted our evaluations accordingly. At one time we did exactly the same thing as the civil service and we did award increases for less than average performance, but we no longer do that.

**Mr. Eakins:** What is your total staff? I just missed that.

**Mr. Archer:** The total complement is 103. It is broken down in appendix F1 and F2.

As you have raised that point, the interesting aspect of F1 and F2 is the progress we have made since January 31. We had only 83 people on staff at that point. As of October, we have 99, which has demonstrated an improvement in the market as far as an employer is concerned. There are many more good people available now than there were 12 months ago.

**Mr. J. M. Johnson:** I have to ask one more question.

On the point that has been raised on a couple of occasions about saleable asset listings and things of this nature, hindsight is always quite easy for making accurate judgements—and we will not get into Minaki Lodge because we might have to wait another 10 years or so. I do, however, recall back in the early 1970s there was a lot of criticism about purchasing the Hydro building just down the street. It was viewed as dastardly for the government. Looking back on it today, was it a good deal or not?

**Mr. Archer:** I don't think I'm prepared to answer that one.

**Mr. McKessock:** You want me to answer that?

**Mr. J. M. Johnson:** Sure.

**Mr. McKessock:** It should have—

**Mr. J. M. Johnson:** I'm thinking in terms of property value. You look at something today and you think it's a bad deal. Maybe five or 10 years from today it's a good deal.

I'm thinking in terms of the buildings around here that the government invested in 10, 20 or 30 years ago. To replace them today would be extremely costly. Maybe the government has bought land where they shouldn't have or they have invested in a lodge that may or not be financially viable. I think you have to take it all into the same category and justify whether the 10 or 100 deals worked out well.

If anyone plays the stock market, you're ahead of the game if you can guess seven out of 10. As Mark Twain said, if you're right 51 per cent of the time, you're better than average.

**Mr. McKessock:** We're still paying 16 to 17 per cent interest on that Ontario Hydro investment. Maybe it's not a good deal. There's nothing cheap about it.

**Mr. J. M. Johnson:** The problem you fellows have is that you have tunnel vision. You zero in on one or two controversial areas and you forget about all the good things.

**Mr. McKessock:** It's awful hard to forget about Hydro.

**Mr. J. M. Johnson:** The only point I was trying to make is that if we are to draft out any list of saleable assets, we have to take into account what we purchased it for, the replacement cost, how much it has appreciated in value during that time in relation to the interest paid to carry it for that time, and the circumstances surrounding it.

If we bought land at some point it was for a reason. Maybe circumstances have changed

and the reason is no longer there. We just can't take one or two or three cases and say these are bad deals, without at the same time taking the three or four or five or 50 that have turned out to be the opposite.

**Mr. Archer:** I agree with those comments.

**Mr. Eakins:** Do you report on things as they turn out today, or is it your job to report on that investment as of that year and that time? We can always wait some years and say that was a good investment. Is it your job to wait and then to see, or is it your job to comment on the investment at that time?

**Mr. Archer:** It is my job to comment whether the decision was right at the time it was made, in the light of all of the circumstances.

**Mr. Eakins:** At that time.

**Mr. Archer:** At that time, yes.

**Mr. J. M. Johnson:** One of the points I was trying to make—take, for example, transportation and highways. If the Ministry of Transportation and Communications could foresee the needs for the roads as far ahead as possible in an escalating economic climate, it would better for us to purchase the rights of way at this time, rather than 10 or 20 years from today, then we would carry the cost of the interest for that land.

In the past, up until the last year or two, that would have been the case. Now it's a calculated risk whether that will carry through into the future. Those are reasonable decisions for the government to reach at a particular time. Would you not agree with that?

**Mr. Archer:** Yes.

**Mr. Chairman:** Mr. Lane, did you have another question?

**Mr. Lane:** The federal auditor was on Canada A.M. this morning. Maybe some of you gentlemen saw the program. He was expressing his concerns about the lack of responsibility of various agencies and crown corporations to respond to any department of the government and the lack of control when many millions of dollars were involved.

Another comment he made was that about 30 per cent—I forget the exact percentage—of the civil service people don't know what they do. They don't know what their job is.

He was commenting this morning. I was just sort of half listening to it. I forget the percentage, but a pretty high per cent of the people who work for the government don't know what they do or why they are there.

Do you people have that problem with the

crown agencies that they are not responsible enough to government? Do you find there are a good many of our people who haven't been properly directed so they do not know what their job is or whether they should be here or not?

**11:20 a.m.**

**Mr. Archer:** On the crown agency question, I haven't had an opportunity yet to read Mr. Dye's report in full to get a better understanding of the points he is making. In our observation we don't feel there is a critical situation here, as he evidently feels there is on the federal scene.

A variety of degrees of autonomy exists with our agencies and crown corporations. Some are quite autonomous; others are very closely tied to the minister or the ministry. They all must report through a ministry.

I would like to read Mr. Dye's comments to find out whether that's the case in Ottawa or not. That gives a measure of accountability or control.

It seems to me that through the activities of the Legislature there are committees that look into things like Ontario Hydro. That forces accountability. We are the auditors of a good many of these agencies and that is another feature that forces a degree of accountability.

Generally speaking, I don't see the problem in Ontario that Mr. Dye evidently sees in Ottawa.

**Mr. Lane:** I haven't read his report either, but I did see him on the Canada A.M. program this morning. He was very concerned about those two things: the lack of response from crown agencies and the lack of knowledge of a lot of the government workers as to what they were doing.

**Mr. J. A. Taylor:** I have a supplementary. Pursuing the example of the federal government given by Mr. Lane, do you see the growth of government as the prime cause of laxity in control of government spending? If so, do you think that has to be so or can that control be regained and exercised with modern methodology and electronics, notwithstanding the size of government?

**Mr. Archer:** The growth of technology has made it easier to collect information, analyse information and stay in touch with what's going on.

On your earlier comment about the growth of government, the larger anything gets, whether it's government or otherwise, the more difficult it becomes to maintain control. It puts more and

more of a premium on getting good systems and good people running those systems in order to obtain the control that is required.

Management Board of Cabinet in Ontario has taken a number of initiatives to try to improve the management process. They are currently working on a management standards process. They recognize that government is so big now that they as a central agency cannot begin to keep the control, the tight strings, they would like. They therefore have to make sure they have good people and systems operating. They have a number of initiatives under way now to try to make sure these systems and people are in place.

**Mr. J. A. Taylor:** Again, just pursuing that, if I may—

**Mr. Lane:** I'm through anyway.

**Mr. J. A. Taylor:** —with a conscious effort on the problems inherent in big government, do you feel the Ontario government can keep effective control of its spending?

We talk in terms of economy and efficiency. Do you feel that whatever mechanisms are available are being employed to ensure that spending at the provincial level is deliberate and controlled?

**Mr. Archer:** Within reason. I don't for a minute say there won't always be room for improvement.

**Mr. McKessock:** You weren't here when we were talking about the big debt.

**Mr. J. A. Taylor:** I understand something about debt. I think it has to be the story of my life, but I don't want to get psyched out on that.

**Mr. Archer:** From the attention and concern of the Management Board of Cabinet and, from our experience, the ministry and agency personnel, generally speaking they want to do a good job. They want the taxpayer to get value for money and they are attempting to bring in systems and procedures which will demonstrate to the government first and then to the Legislature, that they are doing that.

Having said that, I don't think you should expect a perfect system.

**Mr. J. A. Taylor:** With respect, I don't think any of us expect perfection. I guess perfection is finality and finality is death. We don't look forward to that. It was a matter of improving or ensuring that if there are systems available that we take advantage of them to accomplish the best job we can.

I was wondering if we were doing that, in your

estimation, and whether there are any changes in the legislation that you feel would be required in order to do a more effective job. Maybe I could put a period there and then pursue that with you a little bit.

**Mr. Archer:** There may well be some changes in legislation needed in the one area currently under review through Management Board. It has been a concern for us and for many people for quite a long time. That is the area of transfer payments.

The government doesn't have much of a handle on what happens to the money after it's handed to the institution, be it a hospital or a university or whatever. The accountability of these institutions back to the ministry involved is a little hazy.

Part of the problem is that back when the arrangements were set up, many of these institutions were given a lot of autonomy—the universities, for example. There seems to be a reluctance to try to change that situation.

If we are going to get the type of accountability that is necessary in the long run, since 70 per cent of the budget now is in the form of transfer payments, we're going to have to change some of these traditional understandings about the autonomy of some of these recipient institutions. Some legislative changes may be required to do that.

**Mr. J. A. Taylor:** As I see it, you have a delivery system which can absorb a great deal of public funds and sometimes too much funding. There is not as much as there might be coming out of the other end, that is, funds that are transferred to people who are supposed to benefit from them. You have the potential for a growing delivery system and a bureaucracy where people are working in jobs and are not quite sure what they are doing, but they are there and are part of a system they do not wholly understand. That is one area that concerns me, but I gather your mandate does not extend to such things as management audits.

**Mr. Archer:** Yes, it does.

11:30 a.m.

**Mr. J. A. Taylor:** If it does, then to what extent do you discharge that power or that mandate, first, in the ministries and, secondly, in crown corporations?

**Mr. Archer:** All the ministries and all the agencies that we are responsible for auditing are subject to management or operational type of audits, in other words, looking at the management process—for want of a better term—to see



if sufficient attention is being paid to the economy, efficiency and effectiveness of running a business.

However, the recipients of transfer payments, universities, hospitals and so on, are not subject to audit by the Provincial Auditor. Most of them are audited by public accounting firms. They are still doing the traditional financial and compliance end. Part of the task force that Management Board has set up to look at the audited transfer payments is looking at the possibility of either extending the mandate of the public accounting firms or involving internal auditors from the ministries and the agencies to go out and look at the management aspect of handling the money as opposed to the straight financial and compliance end.

**Mr. Eakins:** You are asking for a better reporting back arrangement.

**Mr. Archer:** Yes.

**Mr. J. A. Taylor:** Not only a reporting system, but presumably a review of the administration of those funds and that would include transfer payments to municipalities.

**Mr. Archer:** Yes.

**Mr. J. A. Taylor:** That is quite a gigantic task, I would think, when you get that far. I can understand the vast perception of local autonomy and such things as global funding and the long tentacles of government looking over the shoulders of the recipients and directing how they spend their money, which is seen as their money once they receive it from the province.

**Mr. Archer:** That is right.

**Mr. J. A. Taylor:** Do you see progress in this area?

**Mr. Archer:** I think it is going to come very slowly because it is so deeply ingrained the other way. As you mentioned, once they get the money from the province, it is theirs to do with as they see fit. Even with such things as unconditional grants, I think they are unconditional from the standpoint of where the municipality chooses to spend the money, but I do not think they are unconditional from the standpoint that they are expected to spend that money with due regard to economy and efficiency. The government certainly should expect that they just do not fritter it away. Demonstrating that they are spending that properly is where the gap is right now. There is no feedback coming from the municipalities, to single them out, that they are spending it properly and with due regard to economy and efficiency.

**Mr. Eakins:** Are you suggesting to them there should be a better reporting back on the unconditional grants as well?

**Mr. Archer:** I used that as an example because I think some people figure it is unconditional and that is it.

**Mr. Eakins:** You can take it and do what you like with it.

**Mr. Archer:** Yes. I think to some extent that is true. You can spend it in any area you deem fit, but you are still expected to spend it prudently.

**Mr. Eakins:** That is right, and you would like to see some reporting system to show that it was used in some effective way.

**Mr. Archer:** Not that the government should be trying to zero in on every dollar, but there should be a general reporting system that satisfies them reasonably that that particular municipality is acting wisely and spending money prudently.

**Mr. J. A. Taylor:** You have to draw a line, presumably, between interfering in the legitimate policy of a municipal corporation and the economies and efficiencies of administering that particular program in terms of accomplishing that policy.

**Mr. Archer:** That is right. It is a delicate situation.

**Mr. J. A. Taylor:** And extensive. It strikes me that unless you are really a part of the system, it is very difficult to determine where the waste might be or the inefficiencies. You have to be really there in the field, know what the shortcuts are or where the featherbedding is and be a part of that in order to really be effective. I would think that is difficult for someone from outside.

**Mr. Archer:** That's right. This is a role that the outside auditor might play who is maybe not an integral part of the scene but at least knows the client. He has audited them from a financial standpoint for years.

Possibly one route—I'm not saying it's the only route—that could be followed is to broaden the audit mandate of a public accounting firm to cover off some management aspects.

**Mr. J. A. Taylor:** The control of spending in terms of straight transfer payments to, say, municipal councils and universities, I see as an area that is probably better defined and easier to accomplish. But I'm thinking as well of transfer payments to the abundance of charitable and other types of agencies delivering such things as social services. I guess if you have some money and you are going to help somebody, then you

are doing some good, but there is the question of monitoring and determining the cost-benefit relationship in terms of what you spend and the good that results from that spending.

Can you see a method of controlling that, or would you see that happening through the individual ministries ensuring, whether it be pilot studies of projects or what have you, that as a part of the terms of reference of these programs it be required they return some measurement of cost benefit or some relationship? Do you see that as a legitimate exercise of the transfer of moneys from government to semi-private or public organizations?

**Mr. Archer:** I think there is a lot that can be done by ministries and the agencies that are making transfer payments to stipulate conditions, to follow through on conditions and get information back that purports to demonstrate that they are fulfilling these conditions.

If there is any doubt as to the accuracies of these reports, they could ask the auditor to have a look at them and satisfy themselves that they are reasonable. There is a lot of information that could flow from the recipient back to the ministry that would help the accountability aspect.

As far as direct audit is concerned, there is a wide variety in the degree of audit that goes on now with transfer payments in the government. I mentioned universities earlier. The internal audit, for example, of the Ministry of Colleges and Universities does very little if any auditing of universities. On the other hand, the internal audit of the Ministry of Community and Social Services, which you mentioned, gets involved extensively in the audit of recipients such as children's aid societies.

**Mr. Eakins:** Do you suggest that for greater accountability, say, in the municipal sense, the terms of the municipal auditor should be enlarged?

**Mr. Archer:** That's one.

**Mr. Eakins:** What would be the process in bringing this about? Mr. Taylor has talked about accountability. What would be the process of making sure that the municipal auditor had that responsibility? Who would give him that authority?

11:40 a.m.

**Mr. Archer:** I think the Ministry of Housing and Municipal Affairs would have to stipulate requirements. The requirements with regard to auditing for financial and compliance purposes are pretty well laid down now. They would have to enlarge that to cover areas of—

**Mr. Eakins:** Which would be the best way of doing it, without creating a bureaucracy either within the ministry or within the Provincial Auditor's office?

**Mr. Archer:** You are taking advantage of a mechanism that is already there. In doing that, you have to recognize that the municipal auditor is appointed by the municipality and his first loyalty is going to be to the municipality. If there is a contentious issue and the municipality does not want the auditor to report it, which side does the auditor come down on?

I think you have to live with that. It is either that or drastically revamp the current system.

**Mr. Eakins:** This could be done through the minister stipulating that there shall be this requirement.

**Mr. J. A. Taylor:** That is presumably a condition of funding. I assume you could add those strings to the funding?

**Mr. Archer:** A financial audit is a condition now.

**Mr. Lane:** While we are on that particular subject, I never quite understood, and I would appreciate an explanation, how unconditional grants to the municipalities actually work and are controlled.

There are a lot of municipalities over budget for one reason or another, putting aside some money for the future for this project or that one; yet it seems to me that the total percentage, whether it is 25 or 30 per cent or whatever, is part of that total. Does the ministry get taken a bit by municipalities that sort of build up large reserves and get unconditional grants on top of those reserves, granted that they are for a purpose maybe 10 years down the way? In time of restraint it might be difficult to see those reserves as the needful thing to have. I am wondering how one controls that or how it applies.

**Mr. Archer:** I cannot really get into the detail. It is not fresh in my mind the actual calculations of the unconditional grants and how they are related to such things as reserves municipalities might have. I think it is more related to a distribution of the provincial revenues back to municipalities.

A municipality that is well managed would be in a better position to build up the reserves you mention than one that is not well managed. The question then arises, should you penalize the municipality that is able to save money and put it away for a rainy day as opposed to one that is

not? I do not think the government has attempted to get that deep into it.

**Mr. Lane:** I think that a great many local taxpayers, and I am sure local politicians, do not quite understand the system. I recently had a municipality that went to court over the firing of a policeman, lost the case and had to pay \$120,000 or something in back wages, legal costs and so forth. They approached the Minister of Municipal Affairs and Housing for some kind of assistance. He said to them, "We have already assisted you to the point of 31 per cent of that money because that is how the unconditional grants are applied."

Apparently 31 per cent of \$120,000, or \$80,000 or whatever it turns out to be, was already a grant from the provincial government because they had got it under unconditional grants. It was rather surprising to me that had already happened, and I am sure the council was not aware of it. They had the money, but they were seeing it as their money rather than money that had been set aside.

**Mr. Archer:** Right.

**Mr. Lane:** I think it is one of those areas that has a lot of grey in it as far as a great many people are concerned.

**Mr. J. A. Taylor:** Correct me if I am wrong, but in its budget I think a municipal corporation has to accommodate its current requirements and not make a surplus or suffer a deficit, which may or may not include moneys to retire debentures if that obligation is there presumably, or be a sinking fund to accommodate payments that have to be made in terms of retiring certain debts. I suppose extraordinary expenditures would have to be met and there would be a deficit that would have to be borrowed and made up in the next fiscal year. I was going to ask you—

**Mr. Chairman:** Excuse me, you are going to shift gears. Mr. Eakins, did you have another question?

**Mr. Eakins:** I have just one question. I think it ties in with what we have been talking about, the efficiency—

**Mr. Chairman:** We are going to manage to tie it in.

**Mr. Eakins:** You were talking about attending conventions. I think it ties in with what we have been talking about as to the efficiency of reporting and this type of thing.

I notice that in one area there has been no real conference of provincial auditors and the fed-

eral auditor. Do you have an association in which you come together and exchange notes on the work of the auditors? I may not have noticed that.

**Mr. Archer:** It should be one of the conferences listed here. On the top of page 8, you will see that we met in Victoria, British Columbia, this year. Traditionally, the provincial auditors and the assistant provincial auditors attend, the top two people from each office. Some offices send more than two representatives. Next year the conference is being held in Toronto, and Ontario will be the host of that particular one. We meet for three days once a year and discuss those things you mentioned—common interests, problems and so on.

**Mr. Eakins:** I had overlooked that in looking at another page. That is a good idea.

**Mr. J. A. Taylor:** I noticed you have managed to fill most of the vacancies you had in the past with the exception of four, I think.

**Mr. Archer:** Yes.

**Mr. J. A. Taylor:** You mentioned the letting out of contracts to perform defined functions. I am wondering if you see a continuing need for that type of thing, when necessary, and whether calling on personnel from other firms to assist you in defined tasks is an efficient way of doing things. Is that an ongoing need in order for you to discharge your function?

**Mr. Archer:** I think it will be, though possibly not to the extent it has been in the past. We did it in the past largely because we did not have enough people ourselves. Now that we are getting very close to complement, the need should be less.

Because of the proponents of the March 31 year-end, we have 60 to 70 current agencies that we have allotted. Most of them are trying to fulfil the requirement of getting their annual reports tabled within six months of the year-end. That puts a real heavy audit concentration in the period of May through August. In order to get through that concentrated period, even at full complement, I think we shall find it necessary to go out and hire people from public accounting firms to do the financial and compliance aspect of all of the agency audits. Then our people would be freed up to do the management control aspects of the audit.

**Mr. J. A. Taylor:** It struck me that was a legitimate use of personnel other than our own full-time personnel. I surmise that it might be necessary to maintain that on an ongoing basis.

11:50 a.m.



**Mr. Archer:** That is right. One thing the committee might not be aware of is that we have a high number of chartered accountant students. It's in the high 20s at the moment. In the last year of that course, we lose those people for close to 40 per cent of the year. There is a school of accountancy, which you may have heard of, in the month of May. They have a week of exams after that. If they are successful, they write their finals in September.

Traditionally, students take two or three weeks' leave of absence without pay to prepare themselves to go to the school of accountancy. They take anywhere up to six weeks to prepare to write the final exams. Generally, we lose the CA students in their final year from the middle of May through the middle of September.

**Mr. J. A. Taylor:** There's quite a vacuum there.

**Mr. Archer:** Yes. How many went to the school this year?

**Mr. Otterman:** We had eight.

**Mr. Archer:** Eight of our students, which is a fair percentage of our staff.

**Mr. J. A. Taylor:** At what stage do they come to you? Do they have a bachelor of commerce?

**Mr. Archer:** Many of them do. At one time we only hired students who came out of school with a bachelor of commerce or a bachelor of administration. Most of them would be ready to go to the school of accountancy within two or three years of having come to the office. Latterly, we have been trying to get students with a broader background now that we are getting into management audits. We are getting them with economics, philosophy and psychology backgrounds, masters of business administration and all types.

Many of them come to us with very few credits towards the chartered accountant course. They may be with us three or four years, maybe even five, before they're ready to go to the school of accountancy. While we have 20-odd students in any given year, the number who are in their final year or prepared to go to the school of accountancy could vary from five to 15.

**Mr. J. A. Taylor:** The present system with various universities in terms of the semester type of program should help to some degree to even out the number of students with you on a continuing basis. Some of them could go to school in the summer and have a little more flexibility in terms of the courses they could get.

**Mr. Archer:** Right, and they're graduating

people at different times of year as well. At one time they all came out in the spring, but now some universities have graduates on January 1.

**Mr. McKessock:** Would you not hire any chartered accountants right out of university?

**Mr. Archer:** To get your chartered accountant degree, you have to spend at least two years working. You don't get your CA degree in university. For the most part, you get a commerce or an administration degree. Then you build from that. You have to get so many credits specified by the Institute of Chartered Accountants of Ontario. Once you get those credits and have two years' practical experience, you can go to the school of accountancy, which is a month of intensive study followed by exams. If you succeed at that, you will then write the final CA exams. If you succeed at that, you then get your CA designation.

**Mr. Chairman:** Mr. McKessock, did you have another question?

**Mr. McKessock:** Yes. Have you the annual report there?

**Mr. Archer:** Yes.

**Mr. McKessock:** Page 154 talks about debentures and notes. It shows where Ontario has borrowed \$26 million worth of deutsche marks. What interest rate would they be paying on that money in Germany?

**Mr. Archer:** I couldn't tell you without—I'm sure we have that information. Mr. Otterman just mentioned the interest rate really wasn't of concern there. It was the fluctuating exchange rate that caused them the problems in the past.

**Mr. McKessock:** I also wanted to question the last paragraph. It talks about borrowing 89 million deutsche marks, which was the equivalent of \$26 million Canadian. Right?

**Mr. Archer:** Yes.

**Mr. McKessock:** It said it was \$33 million in 1981, but the last sentence says that in March 31, 1982, the Canadian dollar equivalent was \$45 million. Then in brackets it says 1981, \$65 million. There are two 1981 figures there that are different.

**Mr. Archer:** I think we're referring to the Canadian dollar equivalent at the time they purchased the deutsche marks, which was \$33 million.

**Mr. McKessock:** Right.

**Mr. Archer:** The Canadian dollar equivalent today, if we were to pay those off, would be \$45

million. Yes, the situation has deteriorated from the standpoint of foreign exchange.

**Mr. McKessock:** Are we still talking about the original \$26 million?

**Mr. Archer:** We're talking about the 89 million deutsche marks at the time of issue.

**Mr. McKessock:** In 1981, if the 89 million deutsche marks were worth \$33 million, as in the centre line there, I can't figure out why it's different when they say in 1981 it's \$65 million. We're still talking about the original 89 million deutsche marks, aren't we?

**Mr. Archer:** We have \$26 million Canadian recorded on the books of the province. That is the equivalent Canadian money at the time they bought the deutsche marks.

**Mr. McKessock:** Right, the \$33 million.

**Mr. Archer:** The \$26 million.

**Mr. McKessock:** The \$26 million. In 1981 it was \$33 million.

**Mr. Archer:** Yes, because there has been activity. They paid some off in the intervening year.

**Mr. McKessock:** I see.

**Mr. Archer:** The comparable figures are the \$26 million and the \$45 million. If you want to look at what the situation was like a year ago, the comparable figures are \$33 million and \$65 million.

**Mr. McKessock:** So they're talking about two different figures of marks.

If we flip over to page 157, it lists the farm stabilization and agricultural production programs. If you take all those under stabilization, they only add up to about \$40 million. There was supposed to be \$60 million put into the Ontario farm adjustment assistance program last year. How come it isn't recorded there?

**Mr. Archer:** You have to bear in mind what this statement is. It's a statement of Management Board of Cabinet orders. These are amounts approved by the government in addition to the amounts that were approved in the estimates.

**Mr. McKessock:** I see. Some of it must have been approved in the estimates.

**Mr. Otterman:** If there had been one for the OFAAP program, then it would have been listed.

**Mr. McKessock:** It would have been listed. They only spent \$13.5 million out of the \$60 million anyway.

**Mr. Archer:** So they didn't need a Manage-

ment Board order. That's understandable for the purposes of a Management Board order.

**Mr. McKessock:** I just want to mention this other area of the official guardian, which I wish I knew more about. The odd time a constituent gets into problems with the official guardian and it is brought to my attention. I see that it is one of your areas of audit.

**Mr. Archer:** Right.

**Mr. McKessock:** It seems to me that the official guardian causes a lot of undue problems to families. They tie up their assets when they could very well transfer them to somebody within the family to look after. Once the official guardian gets hold of it, it's as if you fell into a pit and you can't do anything about it.

I don't know whether you can enlighten me, because I haven't got any very good questions to ask you on it, but I just don't like the hold the official guardian gets on some of these people. It seems to be they get into it before they know what is happening. Maybe it's through their fault in not hiring a lawyer ahead of time to get it straightened out; I don't know.

## 12 noon

**The Vice-Chairman:** If I could interrupt you here, that may very well be a matter of legislation and policy as opposed to the accounting process.

**Mr. McKessock:** It very well could be. I just wondered if through your auditing process you have run into anything like this where you notice that family assets are tied up.

**Mr. Archer:** We would be looking more from the standpoint of compliance with the legislation. As long as they have complied with that, I don't think we would have any audit criticism. What you seem to be getting at is that technical adherence to the legislation is bringing hardship in some cases.

**Mr. McKessock:** One case that just vaguely comes to my mind was where the man's wife was admitted to a mental hospital and the official guardian took over the home which was in her name, unfortunately. The reason it was in her name was that her father had given them a mortgage on it early in their marriage, 25 or 30 years prior to this. As it was her father that gave the mortgage, he had it in his daughter's name. The mortgage has been long paid off by the man and his wife. In fact, the man was in business and paid monthly payments until it was paid and it had been paid off for years, but they had never

changed the home from her name. Therefore, the official guardian took over the house.

**The Vice Chairman:** Again, with respect, whether we are talking about a public trustee or the official guardian, I think who the court may choose to appoint is a matter of the judicial process and the provisions of the legislation rather than a function of the auditor.

**Mr. McKessock:** Yes, that's right.

**The Vice-Chairman:** Any further questions?

**Mr. McKessock:** One more question. Do you audit Ontario Hydro?

**Mr. Archer:** No, we do not. It's a crown-controlled corporation which is audited by a public accounting firm. The public accounting firm sends us a copy of the audited financial statement and a copy of its management letter. We go in and look at their working papers periodically and we have the right—sort of as the right of last resort—to go in and do an audit ourselves if we are not getting the information we want through contact with the outside auditor.

**Mr. McKessock:** Is that because the Ontario government guarantees debentures on behalf of Hydro?

**Mr. Archer:** Yes, they guarantee the Hydro investments. The primary involvement of the Ontario government is the guaranteeing of the borrowing of Ontario Hydro. We do not have a direct audit involvement, but we have this indirect involvement, which I think was primarily put there so that the Legislature would have some audit access to the corporation in the event there was some matter it wanted the auditor to look into.

This came out in our latest act in 1978. Prior to that we had no involvement whatsoever with Ontario Hydro.

**Mr. McKessock:** I have the same concerns here with Ontario Hydro that I was talking about earlier with the government in the area of deficits. Ontario Hydro continues to borrow money and continues to go deeper in debt for making hydro we don't need at the present time or haven't needed for a few years back. I just wondered if you make any recommendations in this area. For example, is the government extending to them too much money for building facilities that aren't warranted at this time and questionable as to what time they will be warranted?

**Mr. Archer:** We have not. I don't believe the external auditors that audit Ontario Hydro have

made any recommendations in that regard either. It is a subject that has been well aired through the Legislature and through committees of the Legislature. Even the public accounts committee has got into matters involving Ontario Hydro such as you just identified.

I don't think an audit observation is really necessary. The Legislature is fully conversant with this subject and has had ample opportunity to air its views.

**Mr. McKessock:** You mentioned earlier that committees were good for this reason. I think you mentioned Ontario Hydro. We used to have a select committee, but we don't any more.

From what I understand you've said, in your opinion you feel a select committee is a good watchdog for looking after Ontario Hydro in this—

**Mr. J. A. Taylor:** He said a committee, not just a select committee.

**Mr. Archer:** It doesn't necessarily have to be a select committee, but a committee of the Legislature is a good forum for looking into various matters, certainly one being Ontario Hydro.

**Mr. McKessock:** With respect to a committee at the Legislature, I think we had Ontario Hydro here for two and a half hours this year. That's really not a very—

**Mr. Chairman:** That was the resources development committee.

**Mr. McKessock:** Before the estimates.

**Mr. J. A. Taylor:** With respect, you're getting outside the mandate of the Provincial Auditor when you get to the types of internal policy decisions that are made at the board level of Ontario Hydro. I'm not suggesting there shouldn't be some mechanism for review—you could have legislation that would mandate a management audit—but I don't think that is within the purview of the Provincial Auditor at the present time. Your area of inquiry may be outside the present mandate or terms of reference of the Provincial Auditor. He can correct me if I'm wrong, but I surmise that.

**Mr. McKessock:** As the auditor has mentioned, he does have an overall right to look into Ontario Hydro, and he did mention that the committees do a good job in that area. I just wanted to point out that this year in committee, without the select committee, we had two and a half hours to look at Ontario Hydro.

**Mr. J. A. Taylor:** Again, I don't want to be argumentative, but when you talk about capital spending, investment policy in the building of



nuclear plants, conversion or upgrading of old coal-fired facilities and probable closing down of oil-fired plants, you are getting into an area that is outside the mandate of the Provincial Auditor. Please, Mr. Archer, correct me if I'm wrong.

**Mr. Archer:** I agree. You are probably outside the mandate of any auditor. If you read our act—and it's not the most straightforward thing when it deals with the auditing of crown-controlled corporations, of which Ontario Hydro is one—all the crown-controlled corporations are audited by outside public accounting firms.

I believe the purpose of getting that clause in was that if the Legislature at any time wanted the Provincial Auditor to go in and look at any particular aspect of that operation, the mechanism is there. Conversely, if the Provincial Auditor, in his review of the auditor's report and working papers, saw something he felt the Legislature would be interested in getting more information on, then he on his own could go in and get that.

**Mr. McKessock:** My concern wasn't in the policy area. I started off by talking about the deficit. My concern was the business aspect, running it in a business-like way and not getting in over your head, just the same as you would do if it were your own business.

**Mr. J. A. Taylor:** With respect, and again I don't want to be argumentative or provocative, the borrowing costs on the type of money that was necessary for the capital expansion of the Ontario Hydro system are pretty heavy. That reflects in the cost of running that system and in the rates the consumer pays. I think you are getting into an area now that is outside the report before the committee.

**Mr. McKessock:** Okay. I have just one other point in the Hydro area and why I am concerned about the business area. You mentioned the financing of it. When each one of us receives a hydro bill every month, three months, or what-

ever, and when 40 per cent of that hydro bill is for financing costs, I feel it is very important that we look at the financing and business end of that establishment.

**Mr. J. A. Taylor:** I do not want to keep interrupting you, and I am very sympathetic with what you are saying and would like to see a management audit, if I could put it that way, of Ontario Hydro, but it is not the mandate of the Provincial Auditor to get into the types of matters that you would like the auditor to get into. If we want to pass legislation that is going to extend the powers of government to get involved in Ontario Hydro's decision-making process, then that is a matter for the Legislature. That is all I am saying.

**Mr. McKessock:** I think the Provincial Auditor should get into any area where he sees something cropping up that would cause a private company to go bankrupt and should look at other crown corporations in the same light.

**Mr. Chairman:** If there are no further questions of the auditor and his staff, I would like to thank them for appearing before us this morning and co-operatively answering the questions and concerns of the committee members.

Vote 1101 agreed to.

**Mr. Chairman:** That completes the estimates of the Provincial Auditor.

We will adjourn now. This committee reconvenes after the business of the House today. There are two and a quarter hours left to complete the estimates of the Ministry of Consumer and Commercial Relations.

**Mr. J. M. Johnson:** Will we sit this evening in case we have an emergency debate or something?

**Mr. Chairman:** It is hard to tell. We have to finish on Wednesday before midnight.

The committee recessed at 12:12 p.m.

Wednesday, December 8, 1982

**Administration of the Audit Act and statutory audits program:**  
Office of the Provincial Auditor..... G-251

**Recess..... G-273**

**SPEAKERS IN THIS ISSUE**

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  - Dean, G. H. (Wentworth PC)
  - Eakins, J. F. (Victoria-Haliburton L)
  - Johnson, J. M. (Wellington-Dufferin-Peel PC)
  - Lane, J. G. (Algoma-Manitoulin PC)
  - McKessock, R. (Grey L)
  - Samis, G. R. (Cornwall NDP)
  - Taylor, J. A. (Prince Edward-Lennox PC)
- From the Office of the Provincial Auditor:**  
Archer, D. F., Provincial Auditor  
Otterman, J. F., Assistant Provincial Auditor









Ontario

No. G-10

# Legislature of Ontario Debates

## Official Report (Hansard)

### Standing Committee on General Government

Estimates, Ministry of Consumer and Commercial Relations



### Second Session, Thirty-Second Parliament

Wednesday, December 8, 1982

Afternoon Sitting

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, December 8, 1982

The committee met at 4:51 p.m. in committee room 1.

### ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(concluded)

On vote 1505, property rights program; item 1, program administration:

**Mr. Chairman:** Committee members, I see a quorum. We have three votes to pass, plus a supplementary, to complete these estimates. We have a total of two and one-quarter hours remaining for the Ministry of Consumer and Commercial Relations. Do you want to divide the time in any way or do you just want to proceed? First, let's see what we have to proceed with.

**Mr. Breithaupt:** I'm content just to proceed, Mr. Chairman. We have one item under vote 1505 to complete. We will then be able to move right into the registrar general vote which ordinarily is not too contentious.

**Mr. Mitchell:** Mr. Chairman, perhaps I should point out to the committee that the minister has a meeting with cabinet and he is unavoidably detained. He has asked me, with the committee's concurrence, to represent him here today.

**Mr. Breithaupt:** Yes, the minister also advised me of that. I said there was no problem at all, that we would try to accommodate his other obligation and proceed, as far as I'm concerned, to complete the votes this afternoon.

**Mr. Chairman:** We don't have to have any long discussion now, but we are not going to get two and one-quarter hours in between now and six o'clock tonight. We'll see how it goes at 5:55 p.m. as to whether we come back next week or what we're going to do.

**Mr. Mitchell:** Mr. Chairman, since we are on vote 1505(2), would it be in order for the people from our property rights area to take their places at the table so they can assist in answering any of the questions raised?

**Mr. Chairman:** Yes, if they would like to.

**Mr. Mitchell:** They are Mr. McCutcheon, Mr. Rundle, Mr. Priddle and Mr. Harris. Perhaps they will identify themselves for the record, should it be required.

**Mr. McCutcheon:** I'm Vern McCutcheon of the real property registration branch.

**Mr. Rundle:** I'm Tom Rundle, director of the personal property registration branch.

**Mr. Harris:** I'm Norman Harris, director of the Province of Ontario land registration and identification system project.

**Mr. Priddle:** I'm Richard Priddle, director of the legal and survey standards branch.

**Mr. Chairman:** Thank you, gentlemen. Are there any questions on item 1?

**Mr. Breithaupt:** I just have one point to raise, more to get some information as to how things are developing than otherwise. It concerns the note, which I presume many of us have received, which was an extract that was printed in the monthly report for the Ontario section of the Canadian Bar Association in the September/October 1982 issue.

From what one reads there, this deals particularly with Bill 159, the Planning Act, which, as I note, stands on our Order Paper for third reading. The reason I raise it here is that apparently a letter was sent by the president of the Ontario branch of the CBA, Raymond Ostiguy, to Premier Davis on September 27. That letter refers to some changes in the Planning Act which as a result, from the comments made, would void title to real estate where there is an infraction, even a minor technical one, of subdivision of park lot control requirements.

I won't read this extract at length, except that apparently submissions were made before this committee. As chairman, you would be more aware of that than I. I'm ending with the comment that appears before us concerning a recommendation to solve this concern under the Polaris program and a reference that it was agreed to in principle by the Ministry of Municipal Affairs and Housing staff and was recognized by Mr. Ostiguy as a compromise.

It states: "We have now learned that these provisions have not been recommended by the committee for inclusion in the bill to be reintroduced for third reading. While we appreciate the opportunity to present our views and the courtesies which were extended to us in the

minor technical adjustments to the bill, the failure to resolve the main issue is totally unacceptable to us. We invite you and your colleagues to reconsider your decision. For the benefit of the people of Ontario, particularly those you are trying to encourage to purchase homes, we urge you to resolve this issue by removing the problem once and for all. As always, we stand ready to work with your representatives to achieve a harmonious result."

I realize this is not the place to debate the contents of Bill 159, which this committee has already dealt with, but I thought since the Polaris project—apparently a way of sorting this matter out—was referred to, it would be at least appropriate to inquire as to whether this concern is a valid one. I want to know whether we should be suggesting certain matters to the responsible ministers or is this now being considered and perhaps may be attended to in other procedures that would allow that bill, if necessary, to be reconsidered in some way.

**Mr. Mitchell:** I know Bob Blomsma has come to the table. He has been working very closely with the Ministry of Municipal Affairs and Housing. Perhaps he can answer it. My recollection is that the compromise you talked about never really became accepted. I do know there is some program under way to try to address that problem. Perhaps Bob would care to speak to it.

**Mr. Blomsma:** We had made the proposal a number of months ago to the Ministry of Municipal Affairs and Housing, while the bill to amend the Planning Act was in committee here. As Mr. Ostiguy points out, it was a compromise procedure to get around what is one of the main problems today, which is the voiding provision of the Planning Act.

The way it would work is that the transferor would say that the conveyance complied with the Planning Act. The solicitor for the transferor would say he had advised his client with respect to section 29, or whatever section it is in the new bill. The solicitor for the transferee would then say he had investigated the title and, as far as he is concerned, the transaction complied with the Planning Act.

If those three statements were present, there would be an automatic deeming that the Planning Act had been complied with and the voiding provision would not apply.

**Mr. Breithaupt:** That sounds a bit collusive perhaps, but it's one way of dealing with it.

**Mr. Blomsma:** There are several safeguards

built in. For instance, it couldn't be used if the same lawyer acted on both sides. This is something the law society discourages anyway, but it happens sometimes, for instance, in mortgage transactions.

We talked it over with a group from the Canadian Bar Association. They liked the idea. The feeling of the Ministry of Municipal Affairs and Housing was that there had not yet been enough discussions with the legal profession as a whole to indicate whether there was general agreement in the profession itself.

In the meantime, Mr. Ostiguy and Paul Ginou, who was another lawyer on the committee that met to consider the bill from the Canadian Bar Association's point of view, had been writing and meeting with other lawyers in the field. The best I can gather is that the idea seems to be acceptable to the majority of lawyers. They have been writing to the Minister of Municipal Affairs and Housing (Mr. Bennett) saying that perhaps he ought to consider it now and incorporate this in the Planning Act.

**5 p.m.**

So far we have said that if these amendments do not appear in the Planning Act, they will appear in the next Polaris-related bill. It will allow us to operate a prototype office using a new series of documents in which the affidavit requirements have been changed. The statements appear in the documents themselves.

**Mr. Breithaupt:** As part of the printed form?

**Mr. Blomsma:** Yes, that's right.

**Mr. Breithaupt:** Mr. Chairman, I recognize it's a bit awkward to discuss another item of legislation, but if we can clarify or attempt to take a few steps along to correct what is a concern, I think we should take it when we can.

Perhaps all we can do at this point is to ask if you would send today's comments on to Mr. Bennett, the minister responsible for the Planning Act, to see if they could be useful as he considers what is to be done about this. The parliamentary assistant, Mr. Mitchell, may have some further observations to make on whether this concern can be sorted out so the bill is not unnecessarily delayed. If there is a correction to be attended to, we can help accomplish that.

**Mr. Chairman:** Mr. Breithaupt, as a result of that bulletin or newsletter or whatever it might be termed, I have received a number of letters from different lawyers across the province raising the same concern. A number have gone directly to the clerk and others have gone

directly to the minister. The ones I have received and the ones the clerk has received have been sent directly to the minister with a covering letter showing that concern.

Bill 159 is back awaiting third reading, at which time the ministry, if they have further consideration of it, could very well bring in—and with the amount of correspondence on it, very will might bring in—some amendment to cover the concerns of the legal profession. I shall be more than willing to raise the concern that has come out in this meeting today, directly with the minister.

**Mr. Mitchell:** If I might just add a comment, I talked to the Minister of Municipal Affairs and Housing before I came down here today. Like the rest of you, I am getting the same correspondence. I know he will be replying anew to Mr. Ostiguy. At the moment, I don't know what the contents of the reply will be. It would be presumptuous of me to respond for him other than to say that I understand the Minister of Municipal Affairs and Housing has something in hand to reply to Mr. Ostiguy.

**Mr. Breithaupt:** We raised the matter and I think that is all we can usefully do. If the minister is considering the merits of the argument one way or the other, we have to leave it in his court, at this point at least.

**Mr. Chairman:** Does that cover the concerns on vote 1505, item 1?

**Mr. Breithaupt:** That was the only point I had to raise on this matter.

Item 1 agreed to.

On item 2, real property registration:

**Mr. Swart:** I don't have any complaints to make on this Mr. Chairman. That may surprise you.

**Mr. Chairman:** I am very surprised. We're doing something wrong here.

**Mr. Swart:** I would like to ask two questions. Number one is under real property registration. What is the percentage of the properties now under the land titles and is there real progress being made towards land titles or is it pretty well static? I understand progress is being made and I would like to have a report on it.

That's number one.

**Mr. Mitchell:** Perhaps either Mr. McCutcheon or Mr. Priddle would care to answer that.

**Mr. Priddle:** I can't answer in terms of numbers of parcels in either system, but in numbers of registrations the percentage of the

total which is under the Land Titles Act is increasing all the time, largely because both new condominiums and subdivisions must be registered under the Land Titles Act where the land titles system is available. So new development is largely under the land titles system.

There are some counties in southern Ontario where the land titles system is not available, so obviously that transfer from the old registry system to land titles does not apply in those areas.

**Mr. Breithaupt:** Are you planning for those certification areas to cover the entire southern part of the province? Perhaps you could explain your program for moving into those procedures.

**Mr. Priddle:** The compulsory registration of condominiums under the Land Titles Act has been a requirement of the Condominium Act ever since it came into force in September 1, 1967. It stipulates that the condominium must be registered under the Land Titles Act in areas where that system is available. Otherwise, the title of the declarant must be certified under the Certification of Titles Act.

As of January 1, 1974, by reason of complementary amendments to the Registry Act and the Land Titles Act which were made initially in 1972 and amended in 1973, no subdivision plan may be registered in a land titles area unless the title to the land is in the land titles system. That left one sort of gap in the overall program of requiring title confirmation for either a condominium or subdivision, which was rectified by a regulation designating Ontario as a certification area.

With the six months' period of grace built into the statutory provision which is now in the Registry Act, effective from July 1 of this year no plan of subdivision may be registered under the Registry Act in a non land titles area unless the title of the subdivider has since been certified.

**Mr. Breithaupt:** What are the non land title areas remaining?

**Mr. Priddle:** There are quite a number of them in southern Ontario. I can name them off if you like, but out of a total of roughly 65 registry divisions only 33 of them have land titles. Primarily in eastern Ontario there is Stormont, Dundas and Glengarry; Lanark; Renfrew; Leeds and Grenville; Frontenac; Lennox and Addington; and Victoria. In southwestern Ontario there are Waterloo; Wellington; Grey; Huron; Lambton; and Kent.

**Mr. Swart:** What steps are being taken to



provide the opportunity there to have land titles?

**Mr. Priddle:** At the moment, nothing, sir.

**Mr. Swart:** Obviously, it's a so much better system in the long term.

**Mr. Priddle:** Right, but one of the decisions—

**Mr. Swart:** I guess it's a policy matter, but I'm surprised there is no move really being made to bring all of Ontario under this over a reasonable length of time—some plan to bring the whole province under land titles.

**Mr. Priddle:** The decision we made, sir, in connection with this land registration improvement project some years ago, was not to move everything into the land titles system, but to apply the same improvements to both systems and to see then whether it would be worth dealing individually with the titles in the registry system and transferring them into land titles.

The features of the land titles system are really that there is a current title record; the title records are organized on a parcel basis. As a feature of the so-called Polaris program, the title records will be organized on a parcel basis, and under the 1981 amendments to the Registry Act, we are now ruling out mortgage entries in the registry system upon the recording of discharges of mortgage.

That leaves one area not dealt with, which is the title record. Under amendments that were made to the Certification of Titles Act this year, the new part II, the project staff are retrospectively certifying the titles of registry system subdividers in respect of subdivision plans that are still in the registry system. That will have the effect of making it unnecessary to search the title of the subdivider prior to date of registration of the subdivision plan.

**5:10 p.m.**

The only thing left to be done really in the registry system is to go the next step and delete the prior entry of ownership upon the recording of the new deed. In effect, you will have all the features of a land title system without dealing with individual titles.

**Mr. Breithaupt:** So the average subdivision—

**Mr. Priddle:** That could be made to apply universally sir; that perhaps is the final step.

**Mr. Swart:** It doesn't give the person who may own property now under registration the same opportunity of having it under land titles, or does it?

**Mr. Priddle:** You are correct, sir. At the

moment in the counties where the Land Titles Act is not available, the owner of land has no access to the land titles system. But if he has, for example, a title based on length of adverse possession, he has an alternative, which is to apply for a certificate of title under the Certification of Titles Act.

**Mr. Breithaupt:** Which will do it for him, in effect, and clarify any problems on title in the same way that land titles would, except it may be perhaps a somewhat larger expense.

**Mr. Priddle:** No, the expense is almost exactly the same. The requirements are basically the same and so on.

**Mr. Swart:** I just wondered about the staff provisions for the bill we passed this fall, which would be registration of certain documents in French. Is that set up to go? It is one thing to pass a bill, but it is another thing to have it set up to go. I just wanted to be sure that it is set up to go in those areas.

**Mr. Mitchell:** Perhaps Mr. McCutcheon and the deputy also have comments.

**Mr. Crosbie:** Mr. Chairman, to allay the concerns raised in Mr. Swart's question, the legislation can be applied incrementally and the intent is to bring it into force in those land registry offices and land titles offices where we do have the capacity to deal in the French language. Then, as we develop the capacity in other offices, we will expand it to the necessary areas.

**Mr. Swart:** That was what I was really afraid you would say—where you now have the capacity to do it. I am not sure how many offices that would be. That would not apply, I presume, for instance, in the Niagara south area, where we have a tremendously large French population. I may be wrong, but I do not think you have the capacity there to do it.

My specific question is, are we going to move in these areas where there is a need, so there is a capacity to do it?

**Mr. Crosbie:** There is another aspect of it, and that is that part of the Polaris project is a vastly simplified form of documentation, which I think is going to increase our capacity to move into the French language in areas where right now we do not have the skilled people in the offices to deal with the traditional conveyance and title documents.

**Mr. Swart:** What is being done with regard to staff? If I take the Welland office as an example, there is, to the best of my knowledge—unless a

change has been made recently; one does not keep up on all those things—not the staff there now who have the knowledge of French to handle this.

Is there a conscious replacement when the old staff retire, or are they getting extra people in, so they can provide the service in French? Has a program been set up? That is what I am asking.

**Mr. Crosbie:** Yes. We have a French language policy in the ministry and it relates not just to land titles but to all our programs where we are, under the government policy, required to provide French language services in the designated areas. The recruiting and replacement of staff policy turns around a designation of positions which should be bilingual. Whenever those positions become vacant, the recruitment is for a bilingual person. In that way we are able to provide the capacity over time.

**Mr. Chairman:** Mr. McCutcheon, did you wish to add anything to that?

**Mr. McCutcheon:** Yes. As far as the Welland office is concerned, we are designating certain positions in certain offices and there has been a position designated in the Welland office that specifically has to be replaced at the appropriate time with a French-speaking person.

Item 2 agreed to.

Items 3 and 4 agreed to.

Vote 1505 agreed to.

On vote 1506, registrar general program; item 1, registrar general:

**Mr. Mitchell:** Mr. Chairman, perhaps Rosemary Drapkin would come up, should her assistance be required. She is the deputy registrar general.

**Mr. Breithaupt:** There is just the one item in this vote.

The registrar general has come before us on a number of occasions. We have discussed the searching of older records and the interest that some have in genealogical matters. That appears to be fairly much in hand because certainly I have had no comments about the unavailability of assistance.

In the experience I have had, the registrar general's office probably goes further than it might have to in attempting, wherever possible, to give assistance to people who are interested in their ancestors. No doubt it is a rather time-consuming task to try to find records in parts of the province where perhaps they were

not carefully kept. The fact that this is accomplished at all is sometimes a matter of great interest and is obviously the result of a lot of digging.

The only two points I would like to talk about in this vote are these. First of all, there is the hyphen situation. I read from time to time that birth registrations are made under a mother's maiden name or are attempted under a hyphenated name where both the maiden name and the married name are continued. Some procedure must be developing to try to sort out the process whereby, one of these days, Miss Brown-Black is going to be married to Mr. Green-Orange and the eventual choice of the child's name, or even the sorting out of records, may prove to be rather much more complicated than it may appear now.

I do not know whether this hyphenization scheme is a somewhat passing fad of the 1960s or not, one of the last of the flower-children themes that still is with us. It may be something that is going to continue, and if people want to do that, that is entirely fine with me.

I am wondering how you are going to handle this circumstance, if it does continue over the years, and what way you have of sorting out your records so that, 50 years from now, interest in trying to find out that person's grandfather or whatever it may be is accommodated?

5:20 p.m.

**Mr. McKessock:** The name will be two or three pages long.

**Mr. Breithaupt:** No, I do not think we shall likely get into that line of work, but you never know. Either of my daughters may decide.

**Mrs. Drapkin:** You have mentioned a lot of things.

Last year we had 385 births, out of 122,000, registered in hyphenated surnames. That was an increase of 60 over the year before. It is not growing very quickly. I do not anticipate it growing much higher, but I do not really know.

We have situations now where Portuguese families have a hyphenated name for the father and a hyphenated name for the mother. The act does not limit the number of hyphenated names that we can use.

**Mr. Breithaupt:** This is a particular tradition within that community?

**Mrs. Drapkin:** Yes, but we have been able to accommodate them by using two hyphenated names. They really do not want more than two. We are looking at the whole question of naming

now and are coming up with recommendations on changes to the Vital Statistics Act. I do not know if you were reading about the Cynthia Callard case, but we were looking at giving people more choice. As part of the evaluation, we are thinking we might want to recommend a maximum of two names. It would have to be a combination of the mother's name and the father's name, or parts of the mother's and father's names. If you had Breithaupt, Smith, Drapkin, Brown, then you would take two of those.

**Interjection:** Dreadful.

**Mr. Breithaupt:** Or which.

**Mrs. Drapkin:** Right.

**Mr. Mitchell:** It sounds good—Breithaupt-Brown.

**Mr. Breithaupt:** There was a certain case you mentioned. I am not familiar with it.

**Mrs. Drapkin:** There was a Supreme Court ruling recently where a mother, who was married, wanted to name her child in her maiden name, but the act does not allow for that. The act says the child of a married woman shall carry the surname of the husband. We are now looking at amendments to the act, to allow the use of her maiden name if she so desires.

**Mr. Breithaupt:** Is that with or without the consent of the husband, or perhaps I should not use that word—the father of the child? It might be a bit awkward.

**Mrs. Drapkin:** That is one of the considerations, if at any point we decided to come out with that kind of a provision in the act. Today the birth can be registered by the mother, and if not the mother, the father. In future, if we are going to allow that kind of a choice, we are saying the birth should be registered by the mother and the father, to prevent the mother sending in a registration one day and the father sending one another day. By having them both sign the form we would have some acknowledgement that they agreed on the surname.

**Mr. Breithaupt:** I guess the world is becoming more and more complicated, but it would appear that—

**Mr. Mitchell:** I still like Breithaupt-Brown.

**Mr. Breithaupt:** You see? Perhaps we are back to numbers, who knows? Do you expect some changes in the Vital Statistics Act are going to be suggested to us, as to a variety of these choices? I suppose one could say that 385 out of 122,000 is not one of the most pressing

problems we have in our society. Yet I am sure you would like to try to accommodate and deal with what, for those persons, may be their most important problem at the time.

**Mrs. Drapkin:** In 1976 the Law Reform Commission put out a report on naming. It dealt mainly with the Change of Name Act, but also looked at the Vital Statistics Act. We have been evaluating the recommendations for a while now with the Ministry of the Attorney General. We are working on recommendations on the act and we hope to have some of them conveyed to you very soon.

**Mr. Breithaupt:** I am sure you know what sorts of questions you are going to be asked at the time, as to how this will all sort out. It no doubt would be best to be prepared for that.

**Mr. Crosbie:** Mr. Breithaupt, you might be interested in some of the other problem areas. One of the issues we have had before us recently on naming is where there is a specific religious custom. In a very small Sikh group, they claim—and I think we have established it to our satisfaction—that all men have the last name of Singh and all women the last name is Kaur—that means princess. That, however, is not their last name; it is a naming custom. They have a proper last name; they just do not use it, or at least they did not want to use it for registration. That has raised a problem with us. The present legislation does not allow for that either.

**Mr. Breithaupt:** I was interested in the comment that was made in the Portuguese situation. I was unaware there was a custom of having a double surname, as we would call it and then trying to match up two double surnames which did not necessarily take one of each but might have a quadruple choice. That is an interesting problem to attempt to resolve as well.

**Mr. McKessock:** Were these combinations of two last names in the Portuguese?

**Mrs. Drapkin:** No. The tradition is to have the father's name and the mother's maiden name combined. When there are children, they usually take one from each and it is usually the fathers', so the child would carry the two fathers' ancestors.

**Mr. Breithaupt:** On the hyphenated situation, I had one comment brought to me by one of my colleagues concerning the refusal by an official at the University of Western Ontario to register the hyphenated surname of the student. Would there be any particular authority upon which that would be based? It seemed to be a curious refusal. Unless the statute is clear as to what the



series of acceptable options for a name is in Ontario, I guess you cannot do much about the refusal of some board, agency, commission, university or other institution to deal with matters other than in their decided pattern.

**Mr. W. Mitchell:** I suspect, in that instance, it was probably someone who got married and wanted to use the hyphenated name.

**Mr. Chairman:** Mr. Mitchell, would you put your name on the record please? I did not introduce you.

**Mr. W. Mitchell:** For the record, I am Wally Mitchell.

**Mr. Chairman:** He is assistant deputy registrar.

**Mr. W. Mitchell:** I think the universities will accept a name that is hyphenated at birth, such as is common practice in England. I suspect that what happened in this instance was a marriage and it was an adopted hyphenated name between the husband and wife. In that case the university would—

**Mr. Breithaupt:** For example, Smith-Jones might be the wife's decision, even though her married name was Jones, and that is what it says on the marriage certificate. That may be the reason for the question.

**Mr. W. Mitchell:** Yes. I know universities use the birth registration for single people and the married name for married, as a rule.

**Mr. Breithaupt:** So that might be the kind of circumstance whereby their practice is not illegal, nor is it in any way challenging the statute, since the legislation is silent, until this kind of thing is sorted out.

**Mrs. Drapkin:** The whole question of naming is pretty difficult to deal with because anyone can technically use any name he wants as long as he does not use it for fraudulent purposes. I guess a legal name can be defined as the name on your birth registration, but it does not really say that anywhere.

5:30 p.m.

**Mr. Breithaupt:** Are you also going to address the proprietary rights over the person's name, not otherwise interfered with in the absence of legislation which does not preclude it?

**Mrs. Drapkin:** We would like to try to take as much doubt away from it as possible. We get so many calls all the time on what a legal name is. For school purposes, the board of education defines a legal name as the name on the birth certificate. We have children who are using a different name to the one on the birth certificate because of different circumstances at the time

of birth. The school starts arguing as to what the proper name is or is not.

**Mr. Breithaupt:** Yes. A divorced mother who reverts to her maiden name may have children who choose to do that as well. Yet as far as registration or documents or the class roll, they are under the father's name, the married name. That may well cause embarrassment or an awkward situation in a classroom, in which the child is in the middle through no fault of his or her own. We would not want to see that happen.

**Mr. Mitchell:** As you are aware, Mr. Breithaupt, Mr. Cassidy introduced a motion on November 26 to allow a woman who is separated from her husband to register the child in her maiden name. This may have some support from us in the ministry, but it should be considered as part of the overall package of changes that we are going to be looking at.

**Mr. Breithaupt:** I would think so because there could be another circumstance the next year or there could be another remarriage.

**Mr. Mitchell:** The problems are quite broad. That is why I do not think the registrar general would jump right in with a whole bunch of amendments that had not been clearly and completely thought out.

**Mr. Breithaupt:** It does become quite a tree of choices, which may make record-keeping rather awkward in some situations. Unless the statute is particularly clear and the options are quite thoroughly set out, you are going to be sitting in some sort of Solomonian position making a possibly unpopular decision, or at least one that will be widely reported.

I do not envy you in trying to get out of that particular difficulty with whatever goodwill you would bring, I am sure, to trying to make a decision.

**Mr. Mitchell:** Let me interject. The deputy was just raising some issues that have been raised with regard to naming. I shall ask him to refer to the particular situations.

**Mr. Crosbie:** I was just mentioning to Mr. Mitchell two cases that have come up: one, where they did not want a first name, they just wanted the last name; and the other where they actually wanted to use a number for the first name.

Technically, under the act, it would be a legal name if you want to spell out the number in letters, but we have drawn the line at giving the number itself as a name.

**Mr. Breithaupt:** Some children have the most difficult time with the monickers hung on them.

**Mr. Mitchell:** Like the boy named Sue.

**Mr. Breithaupt:** Whatever.

**Mr. McKessock:** The new generation is not that concerned about surnames. Our teenager at home often refers to individuals, but when you ask what the last name is, that is not important.

**Mr. Crosbie:** I thought it was interesting. There was an article in the press a week or so ago about some town, I think in the midwest United States, where the rage was to wear sweaters with three initials on them. One poor child had only a first and a last name, so they actually went to the trouble of having the name changed so he would have a middle initial and could wear one of the sweaters like everyone else.

**Mr. Breithaupt:** Like Ulysses S. Grant or Harry S. Truman. There was no middle name; it was just an initial.

**Mr. Charlton:** I just have one question; it is a curiosity question. The last several birth certificates that have been ordered through my office have not been the plasticized kind. I am just wondering what the rationale for the change was.

**Mr. Mitchell:** Rosemary Drapkin will answer. I do not know whether you were in these estimates a year ago. There was an awful lot of research done into birth and marriage certificates.

If you remember, there have been cases in the courts having fraudulent, if that is the correct word, birth certificates. These birth certificates really are unforgeable or whatever, and I think that is one of the major reasons why the ministry adopted them. As I say, they were announced by the Honourable Gordon Walker at the time of the estimates about a year ago. Rosemary, perhaps you would comment further.

**Mrs. Drapkin:** These new birth certificates were developed by the Vital Statistics Council of Canada with Statistics Canada and the RCMP, so we are not adopting these birth certificates on our own. It is something that is happening across Canada now and in the Yukon and Northwest Territories.

The main objective was to have a tamperproof document. Another objective was to have a standard Canadian birth certificate that could be readily identified in other countries for border crossings or whatever. We have "Ontario"

across it in prominent letters, but it identifies it as a Canadian document as well.

As Mr. Mitchell said, there are security elements built into this certificate which would be ruined with lamination.

**Mr. Mitchell:** They are, in fact, manufactured by one of the banknote companies, are they not?

**Mrs. Drapkin:** Canadian Banknote Co.

**Mr. Charlton:** The reason I raised the question was that when I delivered the three I ordered to the constituents they all raised the question with me. I think their preference would be for something that is more permanent and durable.

**Mr. Mitchell:** There was some discussion at the time when they were brought in whether we would provide a plastic folder—not a lamination but a plastic-type folder—to go with them, but that was something it was decided not to proceed with.

We have done everything we can to make the people out there aware of why we have gone to this type of a thing. In fact, I have one of the notices that is sent out with the marriage certificates; I don't know whether you got that with the birth certificates.

**Mrs. Drapkin:** He should have.

**Mr. Mitchell:** I will just read it to you, if you were not aware. This one deals with marriage certificates. It says: "You are among the first to receive the new wallet-sized marriage certificate. You have probably noticed that, unlike previous certificates, it is not laminated in plastic. Your document has been designed to be impossible to forge. Lamination affects these security features and may render the certificate unacceptable for some official purposes. We suggest you keep it in a safe place."

It is signed by Rosemary Drapkin.

**Mr. McKessock:** If it is plasticized, how could it be duplicated?

**Mrs. Drapkin:** It is not a matter of duplication. The security feature is that when you hold it up to the light in a certain way the word "Canada" comes up in the top righthand corner. If you laminate it, those security features are gone, so if someone showed you that certificate, you would not be able to readily determine whether it is authentic or not.

**Mr. Mitchell:** Perhaps if you are interested, you might examine it.

**Mrs. Drapkin:** The other thing I wanted to say is that since we introduced them we have sent

out approximately 150,000 certificates. We have had complaints, but the numbers are very small; we estimate maybe about 200. As far as letters are concerned, I think we have sent out maybe 50 to 75. There are some people who are upset about it, but they are few and far between.

**Mr. Crosbie:** I would point out that I was as upset as anyone and I gave the deputy registrar general a very hard time when they brought these things forward because I felt, as you are implying, that the plasticized card was such a convenient thing and we were all used to it.

**Mr. Breithaupt:** And this would not stand up to wear as well in a person's wallet, or whatever.  
5:40 p.m.

**Mr. Crosbie:** I was convinced by the arguments they brought forward on the need for security and some of the criticism the Canadian birth certificates have received. It was really co-operation with the federal officials and a national effort to improve the security quality of the document that led to this.

**Mr. Mitchell:** I cannot recall the specific case, but I do remember it being brought up at the time of the last estimates. It really drew public attention because one of the people who was involved in one of the assassinations, and I cannot remember the specific one—

**Mrs. Drapkin:** Martin Luther King.

**Mr. Mitchell:** —the assassination of Martin Luther King, had somehow or another obtained a Canadian birth certificate. Everyone was a little upset that people could just apply for one and get it. There were so many things wrong with it. I think Rosemary has pointed out that—

**Mr. Samis:** After 14 years? Those objections must have been raised surely in the late 1960s. The assassination was in 1968.

**Mr. Mitchell:** I cannot really answer that because I was not in—

**Mr. Samis:** No, I know, but I would have thought that the objections would have been a little more recent than that.

**Mr. Mitchell:** I am just saying that was one of the issues that was raised at the time.

**Mr. Samis:** Has something of consequence been raised since then?

**Mrs. Drapkin:** There was one case just last year or the year before; I cannot remember who it was now. That was a prominent person as well.

**Mr. McKessock:** I wonder if the registrar general might be upset in a year or two when

they keep sending back for replacements, or is it going to be a money-making venture? How much will they cost?

**Mrs. Drapkin:** The price will be the same. You can ruin a laminated certificate just as easily as you can a nonlaminated certificate, depending on the use the document gets.

**Mr. Breithaupt:** If the thing drops into the water, if you fall into the swimming pool.

**Mrs. Drapkin:** We have wet them and they dry very nicely. We wet them with hot water.

**Mr. Breithaupt:** You are still not going to explain to me why you could not get paper with all the dots in it.

**Mr. McKessock:** Just the usual wear and tear over 40 years.

**Mrs. Drapkin:** I was going to say that these certificates do fit in the majority of wallets—they do not fit in all of them—and they also fit in those plastic pouches you get from the banks. The Ministry of Health has these.

**Mr. Mitchell:** As was pointed out, this is an attempt to make one that, no matter what province you are from, is recognized as being firstly Canadian. I recall in the case of my wife's own birth certificate, it is a very tattered piece of paper that was issued years ago from Nova Scotia. You may have some valid concerns about the wear on it, but none the less we still have in our files the original birth certificate issued, so it has lasted.

**Mrs. Drapkin:** We are also one of the few countries in the world that has had laminated birth certificates, a uniquely Canadian idea.

**Mr. Breithaupt:** I have the source of the hyphen here with me now, as far as the Western scene is concerned. I could not put the case as well as it should have been done. I know my colleague Mr. Van Horne is interested in that particular thing.

**Mr. Van Horne:** I gather Mr. Breithaupt has given you the background of the complaint that was brought to me. The lady concerned is a graduate student at the university who has changed her name and chosen to keep her maiden name and then hyphenate at the end her husband's name. The university is refusing to accept that hyphenated name, which I gather appears on the marriage certificate, would it not?

**Mrs. Drapkin:** No. The marriage certificate would show the bride's name, which would be her maiden name, and it would show the groom's name.



**Mr. Van Horne:** Okay. She wants to use the hyphenated name and the university does not want to accept it.

My questions are twofold. First, is there anything which precludes her from using the hyphenated name; and, secondly, is there anything which allows a university not to accept her hyphenated name?

**Mrs. Drapkin:** The main thing we discussed prior to your getting here was that the whole question of names is a little difficult to define. I'm often asked what is a legal name, and I was saying that the board of education defines a legal name as the name on a birth certificate.

The law doesn't really tell you what a legal name is or isn't. Again, there are thoughts that it is the name on a birth certificate.

The university has adopted the policy that it will only accept that name. There's nothing that the Vital Statistics Act could do right now to help out that situation. We are looking at a number of amendments to the Vital Statistics Act dealing with naming. One of the things we would like to say, and it would probably be in the Change of Name Act—we're working with the Ministry of the Attorney General—is to define what a name is at marriage.

Some of the acts in the other provinces do say that at marriage a person can use this name or that name and it technically becomes the person's legal name.

**Mr. Breithaupt:** In this case it would appear then that this young woman has every right to use a double name and the university has every right to say, "For our records, it's the married name only as opposed to your choice of the hyphenated names." They're both right.

**Mrs. Drapkin:** The other thing I said was anyone can use any name he wants as long as it's not for fraudulent purposes.

**Mr. Van Horne:** My understanding is that both parties intend to stay their ground, which means that we could well end up with a human rights argument. Is that a possibility, if she is saying, "I insist that my name be—"

**Mr. Breithaupt:** "A-B."

**Mr. Van Horne:** —and the university says, "That's fine, but we're not accepting that and you don't get your little piece of paper at the end of your studies?"

**Mr. Breithaupt:** Which says A-B instead of B.

**Mr. Van Horne:** Where does she go then?

**Interjection:** Go to a university that will accept her.

**Mr. Van Horne:** Transfer to the University of Toronto is what you're saying.

**Mr. Crosbie:** This illustrates again a point that Mrs. Drapkin made about the difficulty they're placed in. They have no authority to authorize its use.

I thought, Mrs. Drapkin, you just might relate the circumstances of the recent case of a common-law marriage where, after the death, the common-law wife was buried under the name of the common-law husband. The family didn't recognize it and they didn't like the idea. I don't know whether you can clarify the facts, but it is sort of the position that the registrar's office is put in.

**Mr. Breithaupt:** Not being able to force either party to do anything.

**Mr. Crosbie:** Yes, and then there was a complaint because the death certificate had been issued in the name of the common-law relationship rather the family name and the tombstone had the common-law name. The family was complaining about this and insisting that we do something to prevent the use of this illegal name.

**Mrs. Drapkin:** Apparently she was known in the community under the common-law name. When I spoke to the common-law husband, he was very irate and said, "You take the name off and I'm going to sue." Nothing ever really came of it because in this case we used the name on the birth certificate. We changed it. The common-law name might have been Smith and we bracketed the birth name, Brown. To accommodate both parties, in a sense, we—

**Mr. Breithaupt:** This is with respect to the death certificate?

**Mrs. Drapkin:** Yes. We changed it to the name on the birth certificate. We made it "Brown (known as Smith)." Really, we are placed in a situation that is hard to deal with.

Interjection.

**Mr. Chairman:** Thank you very much, Mrs. Drapkin.

**Mr. Mitchell:** I might make just a final comment. From the few comments that have been made and the few examples given, it's not an easy problem to deal with. It's going to take a lot of careful thought, but it is expected to be answered, we hope, in a package, duly thought out, that will meet with most concerns.

Item 1 agreed to.

Vote 1506 agreed to.

On vote 1507, liquor licence program; item 1, Liquor Licence Board of Ontario:

5:50 p.m.

**Mr. Breithaupt:** I suppose, Mr. Chairman, it's a sign of our changing society that the liquor vote doesn't receive hours and hours of discussion, as no doubt it once did. I have only one question that comes to mind, other than on the general comments Mr. Blair may wish to make. That is on the results of the beer at the ball park experiment, as it's called.

Perhaps we could be brought up to date as to how that has worked out, how the service at the other two stadiums is progressing, and whether there have been any of the difficulties in that situation that some had predicted.

**Mr. Blair:** Mr. Chairman, by the strangest of coincidences, I had a meeting this morning with representatives of Exhibition Stadium Corp. and VS Services. It was a meeting scheduled when beer was introduced at the ball park. We decided to have a meeting following the close of the season, which closed with the Grey Cup a week ago last Sunday. The meeting was scheduled for this morning.

As I understand it and as I see it, the experiment has gone very well. There have been a few incidents at the stadium; some may be related to the beer, I don't know. Most of the so-called incidents have revolved around football games with the resurgence of the Argonauts and the larger than normal crowds. Of course, the Grey Cup itself caused a few problems, but I think those problems would likely have been there anyway, regardless of the introduction of beer back on July 30.

I'll just backtrack a minute. The Blue Jay games have gone very well. There was an incident involving a double header back in August, just before the exhibition opened. The game started at 5:30 and the rules allow beer to be served at 4:30; the game went on and on and they cut off beer sales at 11 o'clock. That posed a problem.

**Mr. McKessock:** Was there more of a cleanup to be done by the innkeepers, or what was the problem?

**Mr. Blair:** I think some came for the purpose of drinking beer. Of course, they were ball fans in the first instance or they wouldn't have paid the price for the tickets. That did pose a problem, but that was an isolated incident.

There are not very many double headers scheduled. There was only one last season, apart from the makeup games that had to be

worked into a double header. I think there are two or three more for 1983. I got my schedule and my invoice the other day.

**Mr. Breithaupt:** It makes for a long day though.

**Mr. Blair:** That's right, so they cut off sales at 11 o'clock. As you know, during the regular games they close beer sales at the beginning of the ninth inning. That's an in-house rule, it isn't a Liquor Licence Board of Ontario rule. That's to be commended, I think.

At double headers they stop after the sixth inning of the second game. It's likely the experience they have during 1983 will dictate what they do there. As far as the Blue Jays go, it worked out very well. Any problems you read about in the paper and heard about in the news media, TV and radio, revolved around the Argonaut games.

As you know, the first indication that the Argos were for real in 1982 was the Edmonton game here on August 7, which I happened to attend. The fans, who are a different kind altogether to baseball fans, really were psyched up for this one, as were the Argos. Of course, the Argos won that game and there was an indication that maybe they were Grey Cup contenders.

The fans streamed out on the field after that game, but there was security of a sort instituted after that. It worked very well up until the final in the Canadian Football League eastern conference when those Ottawa Rough Riders were up, Mr. Mitchell.

**Mr. Mitchell:** I won't say what team I support. You should know by now.

**Mr. Blair:** I just happened to be looking at you and I happened to think of the Ottawa Rough Riders.

**Mr. Mitchell:** Oh, I see.

**Mr. Blair:** At that particular game there was, of course, an indication that the Argos were going to be in the finals, in the Grey Cup, and the fans went a little berserk again. As you all know, football fans historically have taken alcoholic spirits into the game with them and I think that is as big a factor as anything.

I might say that as far as the officials down there are concerned, they think they have cut the taking in and the consumption of hard alcohol to about a third since beer was introduced. They can pretty well judge that by the number of empty bottles they pick up at the end of a game. They have done it before and after.

The security, or lack of it, is the big thing down there and it is being reviewed both with

the Argonauts and the other two main users of the stadium. There have been spot checks made by the VS Services people and the Blue Jays, for instance, regarding the serving of beer to minors and also to see if there is any abuse of the two per customer rule. A few dispensers have served more than two and several of those have been fired on the spot. They have made quite a change there; when they are caught, that is it.

Incidentally, the bringing of beer to the ball park meant about 140 extra people were hired down there, mostly students. Some of them are over anxious or maybe want to do a favour for their friends, as you can understand, but by and large I think it has worked out really well. As you know the beer sales cease at the end of the third quarter in football games and that allows maybe 30 minutes to 45 minutes before the end of the game when the people start driving their cars home.

If you are interested in the consumption—I do not know whether you are interested in that or not, Mr. Chairman—the football fans consume an average of 0.9 bottles per fan; baseball, 0.8 bottles; and soccer, about half a bottle.

As you know, the Blizzard is the professional soccer team here and the attendance has not been that great; maybe they are not beer fans, I don't know.

The police say there has been very little if any increase in offences there. They do spot checks. In fact, the general manager of the stadium was himself stopped one night on Lake Shore Drive.

I don't have firsthand information regarding Lansdowne Park in Ottawa or on Ivor Wynne in Hamilton. There they are using bottled beer in disposable cups and so on, but I think the problems have been minimal and most people may be quite surprised at how well the system has worked when it was brand new in Ontario.

**Mr. Chairman:** Is that the only question you had, Mr. Breithaupt?

**Mr. Breithaupt:** That was the only point I was going to raise.

**Mr. Blair:** We have had no problems with Oktoberfest.

**Mr. Breithaupt:** Of course not.

**Mr. Chairman:** We have about one minute left and I wonder whether you want to complete these estimates today. We still can go an hour and a quarter; I mean, I do not want to cut off debate, obviously. We certainly have to have agreement that we are going to finish up today or are going to bring Mr. Blair and Mr. Boukouris back again.

**Mr. Blair:** This is Mr. Boukouris, director of administration. I should have introduced him at the beginning. Some of you who have been around a while know Mr. Boukouris.

**Mr. Breithaupt:** All I would say is that we really had expected that this would be the day when we would finish our work. I don't know if any of my colleagues have additional questions. The opportunity certainly has been here today.

I am content to have the vote carry without the additional extra hour, but if other members want to continue on this vote, I am in their hands.

**Mr. Chairman:** If we are just about ready to wrap up we could go, with general agreement, beyond six o'clock for 10 minutes or something like that.

**Mr. Hennessy:** I don't have any objection; I don't know about the rest. We got our questions in, I don't think there is anything more to ask.

**Mr. Chairman:** Mr. Charlton, do you have questions?

**Mr. Charlton:** Yes, I have a couple, but they are brief.

**Mr. Chairman:** We will pause here. Do we have agreement to go beyond six o'clock, until 6:15?

Agreed.

**Mr. Hennessy:** I am aware the hotel and motel owners and their association periodically complain about the special occasion permits. Is there any big problem in that? I have had some correspondence about it.

**6 p.m.**

**Mr. Blair:** It's natural that those who are bona fide licensees and have quite an investment in their places are concerned about business that may be generated by the special occasion permits. I know of their concern.

From time to time we do get complaints that functions operating under an SOP are not properly policed. That is a problem we are really concerned about. In some incidents we rely on the police to do it, because of our depleted inspection staff. At other times, knowing ahead of time the potential of a problem, our own people might be there to do it, and are often there.

We are continually having in owners or managers of halls where special occasion permits seem to be the order of the day, either for discussions, when we go through the knuckle-rapping ceremony, or in response to a proposal to suspend their privileges to have SOPs issued



by organizations wanting to use their premises. I suppose this last week I've signed more proposals to deny certain halls SOP privileges than I have for several months.

**Mr. Breithaupt:** Are these in certain areas, particularly?

**Mr. Blair:** Geographic areas, Mr. Breithaupt? No, I don't think so. They seem to be general.

**Mr. Hennessy:** I'd just like to pass my comment on. I know that the Liquor Licence Board of Ontario and the enforcement people are very, very strict. I know at times quite a few permits are refused, and maybe for some valid reasons. I believe they use good judgement.

I just wanted to bring up the question with you. I know this question has come up since the Liquor Licence Board of Ontario was established. Every so often hotel owners do come and complain, but I don't think it's being abused, because any time there is a problem in my area the chief of police handles it and we work very well with him. Some of the people involved do abuse the permits and the second time around they don't get one.

I don't find any fault. I just thought I would bring it up and ask you what your explanation was.

**Mr. Blair:** A lot of SOPs are issued from the liquor stores. A number of stores in Ontario are allowed to do it. I'm not saying they don't do a good job, because they do, and they relieve us of the task of doing it. But sometimes a few permits slip through that perhaps otherwise—

**Mr. Hennessy:** Your inspectors do a good job up our way.

**Mr. McKessock:** Have those privileges been taken away from some stores?

**Mr. Blair:** Not to my knowledge, since I've been on the scene. We have added a few, I know that.

**Mr. McKessock:** I was of the opinion that the stores weren't giving out permits any more.

**Mr. Blair:** No.

**Mr. Mitchell:** Excuse me. Maybe the answer is that not all stores are designated to issue permits. I think perhaps that's where the confusion might be.

**Mr. McKessock:** Will one store cover a certain area?

**Mr. Blair:** Yes. All stores in a given city won't have that privilege.

We are reviewing this whole business right now. Our director of special occasion permits thinks there is merit in having one store in an

area, in a city, say Kitchener or London, where people would go for a permit. The employee who would be looking after them would be our employee and would be an authority on SOPs, and would know the situation throughout that general geographic area.

**Mr. Breithaupt:** You would have some consistency there, which would probably be helpful.

**Mr. Blair:** Yes. We are reviewing that right now.

**Mr. Charlton:** There are three matters that I wanted to raise. The first one is the discussions that have been going on around wine pricing.

It is our understanding that the wine industry in the United States and the government of the United States have been pressuring our federal government—

**Mr. Blair:** That is an LCBO matter.

**Mr. Charlton:** An LCBO matter.

**Mr. Blair:** Yes, we are responsible for licensing.

**Mr. Charlton:** Sorry. Okay.

The second matter was licensed establishments. Perhaps it is just an impression, I'm not sure, but it seems to me that we've been licensing establishments, such as fish and chip shops, which have never had licences before. I am just wondering if there is a basic change in policy or in criteria. What is happening?

**Mr. Blair:** I will answer it this way. Up to a few years ago, there had to be good and compelling reasons for the Liquor Licence Board of Ontario to license an establishment. With the introduction of the Liquor Licence Act six or seven years ago the pendulum swung the other way.

If an applicant qualifies, we have to have good and compelling reasons to refuse them. There could be something about the personal record of the person who is applying—we have to get a personal history of all these people—or the establishment could be in a location, right next to a school or a church or right in the heart of a residential area, that would not be successful or very popular in the area. We will refuse them on that basis, because it is against the public interest.

**Mr. Breithaupt:** What percentage of applicants would you ordinarily refuse?

**Mr. Blair:** That is a hard question because usually they have already been encouraged to proceed when they get their application kit. They know, after a discussion with our licence officer or the local inspector, whether or not they will qualify. They know what the rules are.

A lot of them make inquiries quite innocently and are quite naive about the whole business.

If they qualify and their establishment is in a wet area—we are having lots of fun about that right now—and they have the proper facilities and so on, they then proceed to a public hearing. If it looks to be all right, the board will approve it subject to the final inspection and the submission of the letters of compliance to the municipality. Sometimes the municipality could be against it and they are cut off right there.

With respect to percentages, I would not know how many who have made inquiries have taken out the kit to initiate an application in the first place.

**Mr. Breithaupt:** Presumably it is not a massive figure?

**Mr. Blair:** No, I think they make inquiries. They might find out who the local inspector is and have a talk with him in the first instance and they will know whether they are likely to qualify and then incur the expense or want to proceed.

**Mr. Breithaupt:** But when you actually get to numbers of rejections for the personal history reasons or the details of those people who have proceeded, what sort of a proportion is that?

**Mr. Blair:** I cannot give you that right now. We get this on a monthly statistical basis from the licence director. I can get you that figure.

**Mr. Breithaupt:** I was just generally interested as to whether it was two per cent or 20 per cent.

**Mr. Blair:** No, I would say—

**Mr. Boukouris:** My guess is it is running about five per cent. It is not high. They are usually discouraged in the first instance.

**Mr. Charlton:** Presumably you have set criteria or a set of guidelines that the—

**Mr. Blair:** Yes, and I might make an observation. It bothers me as much as anyone else to license a so-called fish and chip place. We get complaints about the wholesale dispensing of licences. Well, if they qualify, who are we to say they shouldn't have a licence when their potential competitor three or four doors away or around the corner or another block has one?

**Mr. Charlton:** Are there any restrictions on the number of licensed establishments in an area?

**Mr. Blair:** No, there is no restriction on the number.

**Mr. McKessock:** Is that not part of the criteria when you are looking at a place?

**Mr. Blair:** No. We have objectors coming in saying there are too many. I had two new applications on Monday and that was the objection on the part of some of them.

**Mr. Charlton:** These are community objections?

**Mr. Blair:** Yes.

**Mr. Charlton:** How do you handle objections from residents? If an establishment meets all of your normal criteria but you get a number of people from the community around that establishment complaining about an additional licence in that area for no apparent reason—there is no school, etc.—what do you do?

**6:10 p.m.**

**Mr. Blair:** Well, it is a judgement call. If this particular applicant is right in the heart of a residential area, that weighs heavily in our decision in likely declining it.

**Mr. Breithaupt:** Let us say it is just another one in the block along Yonge Street?

**Mr. Blair:** Yonge Street is a little different. There happened to be one on Roncesvalles Avenue the other day and there are quite a few there. There are also a lot of residents living over stores and businesses and they are complaining about the noise and so on that is generated.

Sometimes we attach a term and condition. That happened in a Scarborough case the other day. The neighbours were objecting to it but they got together and they now close at nine o'clock or something. I think it was just a dining room licence that allows beer and wine, but they closed them up at nine, earlier than the usual one o'clock.

**Mr. Breithaupt:** Which might be quite satisfactory, as far as a small dining room goes, because they do not have to be open for lengthy periods.

**Mr. Blair:** We attach a term and condition to patio licences quite often. I happen to be one who does not think there is any merit in a patio operation going to one o'clock in the morning unless it is in a solely commercial or industrial area. There would be noise out there, even though there is no formal entertainment. There would be noise just from people talking, and the more they consume, the louder they may get. The noise will float to the top and patios are open in the summertime and that is when people have their windows open trying to get a night's sleep.

**Mr. Charlton:** So basically this is just a process that has been going on as a result of the change in the act. There is no recent change.

**Mr. Blair:** The pendulum has swung the other way and we have to have pretty good reasons to deny a person a licence.

**Mr. Charlton:** I have one other matter that I wanted to raise. There was some debate going on over the last few years about the 50-50 licences. I have not heard as much about it recently as I was hearing two years back. I believe there was some alteration made in that.

**Mr. Blair:** Yes, as of last January 1 it was 60-40. For every \$100 that is taken in in the dining room or the dining lounge, at least \$40 has to be in food sales and no more than \$60 in alcohol sales.

**Mr. Charlton:** Does that seem to have resolved most of the complaints from the establishments involved?

**Mr. Blair:** It has helped a great deal. There are a few who are not obeying it and we have our investigators go in and monitor it. If they are not obeying the rules, we will either suspend their licence as a warning that we mean business and have them toe the line, or attach a term or condition that they themselves close earlier than one o'clock. People do not eat very much after nine or 10 o'clock at night.

**Mr. Mitchell:** Isn't that the problem you are facing more, Mr. Blair; that it isn't the food, but that they want to expand the hours even more? We extended the hours in January, didn't we?

**Mr. Blair:** Last January we allowed 11 a.m. openings for dining areas, the adjustment of the food-liquor ratios we referred to, and the extension of the Sunday hours until 11 p.m.

**Mr. Charlton:** When you are enforcing that, what kind of criteria do you use? For example, an establishment could miss the mark in one month and be way over the mark in the next month.

**Mr. Blair:** We will not get rough with them if it is just an isolated month; only if there is a pattern there. If they are close, we will have them in for a discussion and warn them that we are watching them and our people may suggest ways and means of improving their ratio.

If we go to the business of setting them up with a licence, we do not want to take it away from them if we can help it, so we try to help them along. Our inspector will help them or give them any assistance they need.

**Mr. Charlton:** That is all I have.

**Mr. Blair:** Mr. Boukouris mentioned that we sent 70 warning letters out last month to people who are either beyond their limits or approaching it.

**Mr. Boukouris:** The financial returns are now coming in to us. Starting November 1, we computerized them and we can now scan them through the computer, instead of doing it manually. We are being even-handed now in the sense that we can get the records up on the screen very quickly. It breaks them up by quarter or by month or we can break them up to each licensed room.

**Mr. Mitchell:** Which is not many, however, when you look at the number of licensed establishments throughout the province.

**Mr. Boukouris:** We are looking at 12,000 licences in 9,700 establishments. It is not high.

**Mr. Chairman:** The hour is approaching. Mr. McKessock, do you have one really quick question that calls for a really quick answer?

**Mr. McKessock:** I couldn't see the justification for allowing the establishments in Toronto to stay open until three o'clock in the morning when all the top financial people were here. Maybe they have been up until three o'clock for a great length of time, from the financial mess all our countries are in right now.

**Mr. Chairman:** Mr. Blair, I think there's an easy answer to that, isn't there?

**Mr. Blair:** It will just take a minute. A letter was written to us in the spring by Dr. Michael Kelly, who was heading up the planning committee for this in Ottawa. I don't know what his title was. He was asking if we would give consideration to the extension of the hours to 4 a.m. during the period of the International Monetary Fund and World Bank conference. My initial reaction was similar to yours.

However, we sat on it and waited to see whether they were really serious. Any time we inquired about their agenda, we were told it was none of our business. I guess a lot of people who were really interested in the agenda and what was going on found the same answer.

Anyway, as the time approached, I had a call one day from a local hotel saying they were notified by the Prime Minister's office in Ottawa that the drinking hours during this conference in the Metropolitan Toronto area would be 10 a.m. to 3 a.m. As you likely read in the paper—it was a rather interesting issue—I told him that the liquor licence hours were not the business of the Prime Minister.

The next day I got a call from Dr. Kelly about



it. I told him that as far as I was concerned the 10 a.m. opening was out and that if he could tell me about some of the events taking place late in the evening and the extension of hours seemed to be warranted, then we would give consideration to it.

The upshot of all that was that we agreed at the board that if the downtown hotels that were billeting delegates or had functions wanted to write to us and ask for an extension to 3 a.m. only, we would give consideration to it for one of their facilities, one of their licensed areas. Twelve hotels did write, 11 downtown, plus the Inn on the Park. Our director of licensing sent a letter telling them that they would be open.

**Mr. Mitchell:** Excuse me, Willis, the time is growing short. Can you capsule the letter?

**Mr. Blair:** Yes. Anyway, on the basis of this being an extension of the philosophy that is in the act, whereby we could issue special occasion permits for a variety of events, including international events, I thought this qualified. We did grant the extension, rather than having them apply for a special occasion permit for an hour or two hours, because some of them would likely be playing it by ear. We granted it on the basis that this would be for the accredited personnel, the delegates, the support staff and so on.

Of course, you know what happened after that. The news media got into the act as well as others and said we were denying the fellow walking in off the street the same privilege. The

actuality was that we weren't taking any privileges away from him that he didn't have before, but we were trying to be reasonable hosts for an international conference on the night or two it was here. We thought we were doing a reasonable thing.

**Mr. Breithaupt:** Did anyone ever monitor the scene to find out whether the facilities were in such great demand that made this whole thing necessary in the first place?

**Mr. Blair:** I did some personal checking and the reaction I got from most of them was that it wasn't worth the effort. It created staff overtime and so on.

The same thing happened in Ottawa when the summit conference was there in the summer of 1981. One or two hotels did all right; for others it wasn't worth the effort. If the same circumstances came along again, they would say no, I would think.

Item 1 agreed to.

Vote 1507 agreed to.

Supplementary estimates agreed to.

**Mr. Chairman:** This completes the estimates for the Ministry of Consumer and Commercial Relations.

We are meeting at 9:30 a.m. for the Office of the Assembly estimates next Wednesday and private members' bills in the afternoon.

The committee adjourned at 6:20 p.m.

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No. G-11

# Legislature of Ontario Debates

## Official Report (Hansard)

**Standing Committee on General Government**  
Estimates, Office of the Assembly



**Second Session, Thirty-Second Parliament**  
Wednesday, December 15, 1982

Speaker: Honourable John M. Turner  
Clerk: Roderick Lewis, QC

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# LEGISLATURE OF ONTARIO

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday, December 15, 1982

The committee met at 9:38 a.m. in committee room 1.

### ESTIMATES, OFFICE OF THE ASSEMBLY

**Mr. Chairman:** Committee members, ladies and gentlemen, I recognize a quorum. We will start the estimates of the Office of the Assembly. I am impartial at all times, but if I have to, I'll speak with partiality.

On vote 1001, Office of the Assembly program; item 3, chief election officer:

**Mr. Chairman:** It has been suggested that we deal with item 3, which is the chief election officer, in that they only require \$1,000 to operate that office. It has been suggested that we let their staff get back to work and perhaps deal with that item first. Of course, \$1,000 is an in-and-out figure. There is no money involved in that, but it boils down to \$1,000.

**Mr. Haggerty:** Would you just run that through the mill again?

**Mr. Chairman:** You haven't got your briefing book here?

**Mr. Haggerty:** No.

**Mr. Chairman:** Are there any questions of the chief election officer, Mr. Bailie?

Would you like him to come up to the witness table? Somebody must have some questions ready, even if it's to question why it is only \$1,000.

**Mr. Haggerty:** Mr. Chairman, if I recall any inquiries that I've had to the chief election officer of the province, I appreciate the services not only that he has provided for me, but other members of our Liberal caucus. The advice has always been good. I see a motion that perhaps is going to be moving forward very shortly. That is the matter of redistribution. Does this have any bearing on the chief election officer?

**Clerk of the House:** It can and it cannot.

**Mr. Haggerty:** It can and it cannot. We're really moving ahead this morning.

**Clerk of the House:** I'll put it this way: it's done by another—

**Mr. Speaker:** The commission hasn't been established.

**Clerk of the House:** No commission has been established. The chief election officer is put on it. That is not established.

**Mr. Haggerty:** Normally, is that the procedure, that the chief election officer is put on it?

**Clerk of the House:** I don't know. I was always on it, but I don't know whether I was on as chief election officer or as Clerk of the House. They never said in which capacity I was on it. They just named me by name.

**Mr. Speaker:** It was just coincidental.

**Mr. Haggerty:** It was just coincidental. You established a precedent and I suppose we can look forward to having Mr. Bailie as a member of that commission.

**Mr. Speaker:** That will be up to you.

**Mr. Chairman:** Not up to you personally, Ray, but you will be part of the process.

**Mr. Haggerty:** I thought perhaps the \$1,000 was for setting up that motion.

**Mr. Bailie:** Mr. Chairman, the chief financial officer is here and I would like him to read the line that is on our submission for your approval today, if I may. Mr. Goodwin, on my right, is the chief financial officer. The chief election clerk, Ms. L. A. Wells, is on his right.

**Mr. Goodwin:** The way the \$1,000 comes into being is that we return all moneys through an accountable warrant. It actually comes to \$339,300. The salaries and wages are \$290,200 and employees' benefits are \$50,100. The office of the director of the Legislature bills us once a month for those salaries.

**Mr. Chairman:** Are there any inquiries of the chief election officer?

**Mr. Samis:** I may expose my total ignorance, but could you just give us an outline of what sort of things you do between elections and between redistributions?

**Mr. Eakins:** Sort of like an opening statement, so we can get some idea of just what we—

**Mr. Samis:** No, there is a sea of ignorance.

**Mr. Bailie:** Between elections we prepare for the next election, generally speaking. It takes approximately one year to complete compiling the record and receiving the supplies and sort-



ing them out, the used and the unused, the good from the bad, the redundant from those that can be used again in the next election.

Once that is completed, according to the provisions of the act, we can then take a look at the documents returned by returning officers. For one year they must be kept under close security and we can't examine them. Then we do a review of all the poll books that were used in the previous election. We prepare, shall we say, lists for returning officers to advise them, for example, that "In this particular poll the deputy returning officer made several errors, perhaps several serious errors, and should not be used again unless you're prepared to give him considerable individual instruction." Or we would give them a list of people who performed poorly whom they should watch very carefully and instruct carefully if their name is submitted again.

We have this situation because the poll books are returned to our office and kept for a year so the returning officer doesn't have a chance to really check over the work that the deputy returning officer did other than if there were complaints or problems that occurred that day.

We have to do that. We study them and give them suggestions. This same review allows our office to examine the forms we have used and the systems we have in place to see whether they are working well and if they're understood by the poll officials and so forth. Based on that review, we then start preparing for the next election.

By the time it is decided which forms are needed and which ones should be improved, it takes about a year before they are ordered and in place. We are now three years from the election and, historically, since I've been in the office, we've had an election sooner than every three years. That would mean that we would be pretty well ready for the next election about three years from the previous one, which is probably not any too soon. If by-elections intervene, which is usually the case, that time is often extended.

There are also other things, such as the point Mr. Haggerty brought up about the possibility of redistribution. We have heard rumours this is coming up too. The chief election officer was involved in the last two redistributions, and in the very last one, two staff members were involved as well, so we would be involved in that.

That's just a short overview. There are many other items.

**Clerk of the House:** Mr. Chairman, may I assist briefly in this? I would just like to sum up with the committee's consent. In the years I spent in that job, I found, as Mr. Bailie has indicated briefly to the committee, it takes about a year at least to clean up from a general election. It takes at least two years to get ready for the next general election. That's about the pattern.

Then there are by-elections in between. During one parliament I had 12 by-elections between the general elections.

**Mr. Samis:** May I just ask one further question? It is on the whole question of enumeration. Is that under your jurisdiction or somebody else's?

**Mr. Bailie:** The operation of our present system of enumeration would be under my control.

**Mr. Samis:** Who makes the decision as to what type of system is used? Is that within your jurisdiction as well?

**Mr. Bailie:** No. It is laid down in the Election Act precisely this, this, this and this.

**Mr. Samis:** So it is up to the government if changes are to be made?

**Mr. Bailie:** It is up to the Legislature to change if it has in mind to change that, yes.

**Mr. Haggerty:** I have one supplementary question. Mr. Bailie, you mentioned that there may be some deputy returning officers who perhaps are not suitable to work in that capacity. Who do you send that information back to?

**Mr. Bailie:** The returning officer. Under the Election Act, the three political parties have the right to nominate the poll officials. That is in the act. That's a nomination and it's up to the returning officers to appoint them if they have reason to believe they can do a satisfactory job.

In the last by-election, we had a lady who was nominated and we had reason to believe there might be some difficulty. This lady was asked to come in. She was shown the form and we went through a little dress rehearsal of what she would have to do. It was very clear at the end of this little test, even to herself and her husband, that she really couldn't keep up with the work and the writing wouldn't be clear enough. Her writing was such that it wouldn't fit right in the spaces even. She said: "Fine. Thanks for giving me a good hearing on it."

That was based on a check of the records in the previous election. That's why we were aware there was a potential problem there. In

that case, the lady protested, so we said, "Come on in and we'll give you a little trial and see how it goes."

**Mr. Haggerty:** Usually, the procedure is, and I could be corrected on it, that the opposition member who is already sitting appoints the poll.

**Mr. Bailie:** Nominates the poll, yes.

**Mr. Haggerty:** That's right. Then the returning officer would be submitted by the government in power. The point is that if some persons are not capable of being in that position, do you not think that other parties should be notified of that person? The next time around they could be put back into the polls and run into the same difficulty.

9:50 a.m.

**Mr. Bailie:** Yes. I should have mentioned that when we send this list out to the returning officers they are instructed to advise the parties appointing people. It usually amounts to about one or two in an electoral district where we say, "You should really not appoint these people again unless you are prepared to give them considerable individual instruction." The list of people who would need some additional instruction would amount to five or six. It is not that many.

**Mr. Eakins:** Per riding, you mean?

**Mr. Bailie:** Per riding. In some cases they would be clear. It is not that unusual that an electoral district would have no names at all on it.

**Mr. Eakins:** Perhaps we have a good riding. I have never been informed of any. Do you do a follow-up to make sure the returning officer informs those involved?

**Mr. Bailie:** The philosophy of my office is that, just as it says in the act, the returning officer is running the election in each of those electoral districts. We are doing something they cannot do, as I stated earlier, because those records are in our office. We advise them that the final decision and how they approach it is their responsibility.

**Mr. Eakins:** Do you mean the final decision to notify the other parties? If those people were nominated by one of the three parties, you are saying that she or he has the prerogative of notifying those people? Did you say that the act says they must notify them?

**Mr. Bailie:** No, it is not in the act. It is in the act that we keep the records so they do not have access to them. Many returning officers will say: "I have got that name, she is a nice lady; she is a

widow and she needs some money. I will just ask her to come in a little earlier for the course of instruction. I will just give her a good rehearsal on the rules and I am sure she will be all right."

**Mr. Eakins:** But you say all parties should be notified about this.

**Mr. Bailie:** If someone has made a few errors and is given some additional instruction and it is quite clear that in all likelihood he will be able to perform quite satisfactorily, I do not think political parties should be notified of this one weakness. It is a judgement call, mind you.

**Mr. Eakins:** Unless there is a glaring example.

**Mr. Bailie:** I have been a returning officer and I would go to the candidate myself and say: "We do not want to have an embarrassing situation, but the work of that nice Mr. So-and-so whom you always nominate has been so poor that we really cannot have him. He is going to be an embarrassment to us and everyone knows that you are the one who has the right to nominate him. Maybe you could find something else for him to do."

These situations do occur, but there are very few serious ones. It is a kind of judgement call, really.

**Mr. Haggerty:** To continue with it, I find in my particular area it is like trying to pull teeth from the returning officer. He says: "You never asked me. If you had asked me, I would have told you." Yet the information is there. Sometimes you do run into that difficulty. In my campaigns they have been in touch with your office and the information has been very good. It is too bad we have to go this way to get it.

I suggest to you that if you are sending out information like that, maybe it is worth while to send it to the other parties as well. If I appointed somebody who was not doing the job he should be, I would not think I was being dealt with fairly at the polls then. You do not know about them unless the returning officer discreetly tells whatever party it might be to handle it.

**Mr. Bailie:** We will take that under advisement. I think you can appreciate you would have to be very discreet.

**Mr. Chairman:** Thank you very much, Mr. Bailie. I wonder if we are ready then—

**Clerk of the House:** Mr. Chairman, just before they go, I would like to take this opportunity, if I may, as the former chief election officer, to express my thanks publicly to Mr. Bailie, Mr. Goodwin, Ms. Wells and all the other members of the staff down there for the

exceptionally efficient work they did for me over the years and for their everlasting loyalty.

**Mr. J. A. Taylor:** Mr. Chairman, that does not beg, but I think it invites some commendation to Mr. Lewis for the great work he has done in advance of Mr. Bailie's appointment to the post of chief electoral officer.

**Mr. Chairman:** I think we should not get ahead of ourselves. Shall that item carry?

Item 3 agreed to.

On item 11, Commission on Election Contributions and Expenses:

**Mr. Chairman:** Item 11 is Commission on Election Contributions and Expenses. It is suggested that we deal with that one now. If the committee objects to it, just say so, but the purpose of jumping around is that we have the staff here from these various offices and we can let them get back to their daily routine. Would these people introduce themselves, please?

**Ms. Sullivan:** My name is Barbara Sullivan and I am vice-chairman of the Commission on Election Contributions and Expenses. To my left is Mr. Bob Dobson, who is registrar for the commission, and to my right is Eddie Allen, who is assistant registrar for the commission.

We do not have a formal brief to present concerning the estimates since we just discovered yesterday that we were to be here today. However, I would like to put into context the activities in the 1982 year.

The commission has reviewed the constituency association returns and the party returns for 1981, which were due May 31, 1982, and has continued the review of the general election returns of candidates, parties and constituency associations, which were due September 19, 1981, but the review process continues into 1982. It has reviewed such by-election returns as are in now of parties, constituency associations and candidates from Hamilton West and York South.

Hamilton West returns were due on December 17 and the commission has dealt with those of candidates from the NDP and the Conservative Party. We will be dealing with the remainder of the constituency associations' and candidates' returns shortly. Returns for the York South by-election, held November 4, are not due until May 4, 1983.

Additionally, the commission has reviewed the foundations and trust funds which have been set up under the act.

We appeared before the procedural affairs committee earlier on this year and at that time

reviewed all of the proposed amendments coming from the commission. They are largely procedural amendments, housekeeping kinds of amendments.

We recently agreed that the commission will cease reporting to the leaders of the political parties the expenditures made by constituency associations for municipal candidates. In addition, we have recently made a decision that would eliminate specific fund-raising for purposes of municipal campaigns, indicating that the commission does not feel those qualify for provincial tax deductions.

**10 a.m.**

One other activity of the commission is to have summer students update the parliamentary review of political financing nationally in order to put the affairs of Ontario within a national context. The latest report will be published shortly.

We would now be prepared to answer questions or to review the 1982-83 estimates, as you wish.

**Mr. Chairman:** Thank you, Ms. Sullivan. Are there any questions of the witnesses? I guess it was pretty well explained. Thank you ever so much.

**Mr. Haggerty:** I just have one question in relation to municipal elections. You indicated you had made some decision in this area?

**Ms. Sullivan:** In the 1982 municipal campaigns there were several instances where the provincial tax deduction was offered through the constituency association. These were brought to the commission's attention by members of the public.

It was the commission's recommendation that fund-raising for municipal purposes did not meet the purpose of the act, therefore, there should not be a tax credit on funds raised for that specific purpose.

We have met with the income tax officials and they concur with that recommendation.

**Mr. Haggerty:** This commission isn't actually involved with municipal elections, is it? You're just related to provincial.

**Ms. Sullivan:** Precisely.

**Mr. Haggerty:** Have you made any recommendations at all to the minister responsible, the Minister of Municipal Affairs and Housing (Mr. Bennett), that there should be some control on municipal expenditures for candidates running for office?

As I understand it, certain mayors will spend



\$75,000 or \$80,000 or something like that. That far exceeds those running in provincial elections. Have you given any advice or sent out any signals that there should be some controls in this particular area?

**Ms. Sullivan:** We haven't, partly because the commission has seen its role as a body that is there to administer the act rather than to recommend policy. A number of us as individual commissioners have strong individual recommendations to make, but as a commission we will not make those recommendations.

**Mr. Stokes:** What is your experience over the last year or so with regard to recommendations for changes to the act?

It is my experience in the past that you send them to the House through the Speaker and he turns them over to the government House leader who orders the business of the House. In Mr. Wishart's days, he had great difficulty trying to impress upon the assembly—that would be the kindest way of putting it—that certain amendments to the act would allow the commission to do its job much more effectively.

I had great difficulty impressing upon the government House leader that these people were serious, that they were doing an excellent job on our behalf and that it was our collective responsibility to assist them in any way possible. I was singularly unsuccessful in doing that and I'm just wondering if there has been any change?

**Ms. Sullivan:** Nothing has changed. We say the same thing each time we come before the estimates committee as well. There are proposed amendments from the commission which would not only make things easier for the commission, but would also make things more simple and straightforward for the volunteers in constituency associations and parties when completing their work. There are some anomalies within the act that really ought to be changed too.

**Mr. Stokes:** For instance?

**Mr. Eakins:** Do you have anything you can share with us that we should be aware of as a committee?

**Ms. Sullivan:** I do not want to say no, that I do not want to go through it again, but we did go through the proposed amendments at some length in the procedural affairs committee. I think that report will include, for the benefit of the entire assembly, all of the proposed amendments.

Some of them, for instance, are as small as determining where the subsidy cheque will be

directed subsequent to an election, whether it will go to the campaign financial officer or to the candidate or will be made out to both.

Others are larger and relate to matters that are really a little bit more detailed. We do have with us some copies of the consolidation of amendments if you would like to look at them.

**Mr. Lane:** When this group appeared before the procedural affairs committee, I recall we felt the recommendations were pretty reasonable, mostly housekeeping, as you mentioned. I think we went a bit farther than that and suggested some more major amendments that we felt would make the whole thing work better. Hopefully, that was a useful process and will bear results in due course.

**Mr. Chairman:** Are there any other questions for the commission? If not, thank you ever so much for appearing before us this morning.

Item 11 agreed to.

**Mr. Chairman:** We also have a supplementary on that in the amount of \$70,300. Will that carry?

Supplementary estimate agreed to.

On item 12, legislative library:

**Mr. Chairman:** We have the staff from the library, so we shall let them get down to their work.

**Dr. Land:** We have no statement, but just to refresh the memory of committee members, the library has undergone rapid growth over the last three or four years in response to the recommendations of the Camp commission, the Morrow committee on the Camp commission and the Spicer report on the library.

**Mr. Chairman:** Excuse me. For the record, would you like to introduce your group?

**Dr. Land:** Yes, I am sorry, I should have started with that.

On my far right is Mary Dickerson, head of information and reference services, and next to her is Pamela Stoksik, who is the head of technical services and systems and hides away at 180 Bloor Street West.

**Mr. Chairman:** They could not find a space for you here?

**Dr. Land:** On my immediate right is Linda Grayson, the chief of the legislative research services, which are located on the first floor.

As I was mentioning, the library has undergone rapid growth, which is now slowing down and stabilizing. In addition to the library service proper, we also operate a press clipping service, located at LuCliff Place down on Gerrard and

Bay Streets and the checklist and catalogue service which produces the Ontario monthly checklist that members receive. There is also the research service.

With that, I would be prepared to respond to your questions.

**10:10 a.m.**

**Mr. Stokes:** First, I would like to say how supportive we should all be of the excellent work that is done in our library information and research services.

I do not know how they could possibly come in with the \$2,163,300, which is precisely what they spent last year. I doubt you will be able to adhere strictly to that on a dollar basis because I notice there has been a decrease of the Ontario budget of 7.48 per cent. This excellent document was prepared by Mr. Fleming and Mr. Mitchinson as a comparative study of Canadian legislatures. We compare very favourably, even in terms of what is going on in the House of Commons in Ottawa.

I want to say how appreciative I am of the excellent work our library staff does, particularly the reference library. Just 10 days ago I was looking for a piece of information on the infamous pipeline debate in Ottawa in 1956, and I was surprised how much you were able to come up with in a very short time.

I think the money we spend here is very well spent. How many requests do you get for pieces of research? The reason I ask this is that we got a memo from Dr. Grayson saying that you were inundated with requests and you were going to have to do it on a priority basis for a while. Not long after that, we got another one saying you had caught up.

I am wondering why that would have happened in the summer months when one would have thought the work load would have been diminished somewhat. What is the load of requests from members for research and why would we get that phenomenon at a time of the year when one would not expect it?

**Dr. Land:** First, I would like to thank Mr. Stokes not only for his kind comments, but for his support while he was Speaker.

I shall just make one general comment, and then ask Linda Grayson to respond in detail. The library is a year-round business. I believe we are busier in between sessions, so to speak, when the committees are meeting, than we are during the regular session.

One of the reasons for the difficulties in the research service this summer was that there was

a new format inaugurated by the committees. I have forgotten which particular committee was sitting; I think it was the committee on family violence. It elected to sit every day from 9 a.m. or 9:30 a.m. until 6 p.m. Instead of having one research officer assigned to cover that, we ended up with three because we had to have one research officer in the committee to deal with requests and two others to assist in the work.

With that, perhaps I shall ask Linda Grayson to be more specific about the research load.

**Dr. Grayson:** Not only did we have the social development committee which, as Dr. Land has just mentioned, sat five days a week, two sittings a day, for two weeks, but the number of individual member requests also went up that month. It actually went up 211 per cent over the same month last year.

In addition, summer is the traditional time for staff to take holidays because we do not like them to take too many holidays when the House is in session.

During the month of July, there were 50 requests altogether, and with a staff of seven research officers at that time, it became very difficult to handle them. Part of the problem is in the way we count a request. All requests are treated equally. In other words, each request is treated as one. However, the amount of time and complexity varies considerably.

For example, in the social development committee, one of the requests was to summarize the recommendations from all the briefs that had been presented. What we end up with is something like this, which is 100 pages long and takes an awful lot of staff time. However, the members seem to find it very helpful, when they are making recommendations, to be able to turn, in this case, to native women and to have a list of every recommendation that was made on that particular topic.

I think the requests that are made seem to help members. They do take an awful lot of time, but that does not necessarily project itself in terms of members. Fifty requests for seven people does not sound like an inordinate amount of work. You have to look at the kinds of requests that were received.

**Mr. Stokes:** I am really impressed with the range of topics that our library services handle. I just got something in the mail this morning, the selected new titles. It really covers the waterfront.

I wonder if you find that a select few of the 125 members really fully appreciate the kind of information that is available, or is it a broad

range of members from all parties taking advantage of this excellent service?

**Dr. Grayson:** The research service itself has provided research to 89 of the 125 members up to this point this year.

**Mr. Stokes:** In my estimates book, anyway, we certainly do not have detailed information. However, in this comparative study of legislative services, I notice that for Ontario we have eight regular and three contract employees in our library research.

Why do we have three contract employees as opposed to full-time employees? Are you just experimenting or testing the water? What is the reason you would have three contract employees in research as opposed to a full-time complement?

**Dr. Grayson:** Essentially, that was the decision of the Board of Internal Economy last year. We had asked for full-time staff members. However, it was felt that by having contract people we would be in a better position to judge the extent to which they were being fully utilized during that period. Again, at the end of that period, we could make an assessment and discuss it with the board.

**Mr. Stokes:** That was last year. What has been your experience in the interim?

**Dr. Grayson:** In the interim, our experience has been as follows. The research service, as you know, has peaks and valleys, because we have no control over the volume of requests or their timing. When we are busy, we need all those people. When there is a slight falling off, then they turn to other things, like current issue papers and some of the things that are distributed to members. In our busy periods, we need all those people.

**Mr. Stokes:** Dr. Land, I have one final question. Since space is at a premium in this building and you have a lot of your staff outside it, for reasons that are well known to all of us, how has this worked out?

Have you been able to cope, or is it causing you logistical problems? Does it mean a lot of running around or courier service? What has been your experience? Perhaps for the benefit of the committee, you could tell us where those people not accommodated in this building are. What is your general opinion of the way in which your staff is accommodated?

10:20 a.m.

**Dr. Land:** Mr. Stokes, we have two divisions up at 180 Bloor Street West, next to the Park

Plaza Hotel. We have 16 people in technical services and systems, another four in the check-list and catalogue service, and 10 people in the press clipping service down at LuCliff Place.

It is necessary for us to use a courier service, so we have a driver who goes back and forth twice daily between those points. The complication is greatest with respect to the technical services because these are the people who order the books, catalogue them and then send them to the library. There is a lot of transshipment back and forth.

The courier service has helped us, but perhaps Pamela Stoksik, who is actually at Bloor Street, might have another view of it.

**Ms. Stoksik:** Essentially, it has worked out quite a bit better than I thought it would. When we first moved up there, there was a period of adjustment for all library staff, but the twice-daily delivery service does seem to work out quite well.

The only problems we have are crucial time factors which have to be taken into account, and then people scurry back and forth.

**Mr. Stokes:** Are researchers still taking work home or are they able to do what is expected of them during regular office hours?

**Ms. Stoksik:** I think there is always some work that has to be taken home. For instance, a particular document that you need doesn't come in till four o'clock and you've promised the report for the next day. You take it home and read it so that you can incorporate it into the report, while still meeting the member's deadline. That's expected in this kind of work because deadlines are so important.

**Mr. Haggerty:** I want to commend the director of library services, Dr. Land and his staff, for the excellent services, particularly to the Liberal caucus, and also the improvement of the quality of debate in the House. In most instances it has come about through the great knowledge and information passed on by the library services.

Interjection.

**Mr. Haggerty:** I heard that comment. I said, "in most instances."

**Mr. Chairman:** You did say "most instances."

**Mr. Haggerty:** That's right.

I also commend them for the excellent services provided to committees of the Legislature, in particular, select committees and special committees dealing with certain matters pertaining to legislation, the involvement of politics and the representing of the people.



I find, for example, sitting on the pensions committee, that one of the legislative staff members was there, Dr. Jim O'Mara. Excellent services were provided to the committee at that time when there were a number of delegations coming in. You always had some text prepared for you the day that special committees were coming in to discuss the issues.

I often thought that it was a great asset to the committee members that we had up-to-date information concerning the particular topic. I suggest that there has been a great improvement in the services provided to the members and that it has perhaps improved their understanding of the issues.

One of the problems I find, Mr. Chairman, is that on occasions I have to acquire language interpretation. I find that it is sometimes two or three weeks before I can get some of the services back. I believe you have to go through Government Services. The expenditure there is—I'm just quoting figures, coming off the top—around \$700,000 for language services. I wonder whether that has provided much for the members' services or not.

I thought perhaps the library would be an area that we should be looking at if members wanted quick interpretation of different languages. Maybe this is the source and area that we should looking at; perhaps library services could provide this for the members. I don't know whether the director of library services would want to comment on that and whether it could be included under special services for the members, but I think it is an area that we should be looking at.

**Dr. Land:** I would first like to thank Mr. Haggerty for his kind comments.

With respect to the translation, as I expect other units of the assembly do, we rely on the translation service which I believe is in the Ministry of Government Services. Mostly I am speaking of English to French. We don't have a translation unit per se, although we do have some people who have the capability of translating into French to a degree, to answer a letter, let us say. If it is a document or something more official that requires a more formal endorsement, then we have been using the translation service.

As you point out, the biggest problem for us, as for others, is delay and not being able to get it as quickly as we would like. It is something we haven't thought about providing. I don't know whether there has been any demand for translation. Mary, has there?

**Mrs. Dickerson:** To maintain a staff member to do that kind of translation would mean that we would have to be able to sustain a certain level to keep that person occupied all the time. I don't have any idea of what the volume of usage by members is. I guess that would be part of the criteria.

**Mr. Haggerty:** That was just a suggestion, Mr. Chairman. There is the time the members have to spend in getting a requisition and going through Government Services. I thought there would be some place where we could get a quicker response if we had somebody directly within this building for members. The purpose of the building is for the members. Perhaps the director can take it under advisement to review it and come back and report to the committee later on.

I attended one of the functions here not too long ago with a number of members of the Legislature at which there were discussions with other librarians from across Canada who represented other legislative assemblies. They consider Ontario with envy and they would all like to have the same courteous service that is provided by the legislative library services here.

Perhaps that's another compliment to the library director. The services provided represent one area where Ontario can be in the forefront in the sense that it is providing some services for the members. Maybe it can be improved upon, but I am well satisfied with it and I am sure our caucus is. Often I think of our House leader saying if we can't get it in research here go to the library to get it. I am sure he has sent a number of our caucus members in that direction. Right, Mr. Nixon?

**Mr. Chairman:** Any further questions.

**Mr. J. A. Taylor:** I have no question, Mr. Chairman, but in the ecumenical spirit that I perceive this morning I would like to commend both the member for Lake Nipigon (Mr. Stokes) and the member for Erie (Mr. Haggerty) for their good judgement. I say that to Mr. Stokes because it is not very often I agree with his observations.

**Mr. Stokes:** Maybe I should reassess my position.

**Mr. J. A. Taylor:** You do so at your own peril in this instance. It has certainly been my observation, Mr. Chairman, that the library services are very efficient and very professional and have been doing a noticeably exceptional job. I felt I would like to make that my comment.

10:30 a.m.

**Mr. Eakins:** I just wanted to add a personal note. Sometimes the work of the library might be taken for granted, but this past summer I had the occasion, along with Mr. Speaker and half a dozen others from the Legislature, to attend the Commonwealth conference in Yellowknife. The background information which was provided to us at the time was excellent. I want to express my personal appreciation for the work of our library in providing that information for the members. It was most helpful.

**Mr. Speaker:** While we are all in the generous frame of mind, in all seriousness, speaking on behalf of all the members, the high-quality service we have has been generally recognized. I would like to commend you, Dr. Land, and your staff not only on behalf of the assembly but on a very personal basis as well. Mr. Eakins has pointed out that one instance and there have been several others where the library staff and services have been extremely valuable.

When you come to the Board of Internal Economy, I am not sure whether everybody—

**Mr. Chairman:** You will hear the other side, I am sure.

**Mr. Speaker:** However, thank you very much.

**Mr. Chairman:** Thank you very much, Dr. Land, for appearing before us.

**Dr. Land:** Thank you, Mr. Chairman.

Item 12 agreed to.

Supplementary estimate agreed to.

On item 1, Office of the Speaker:

**Mr. Chairman:** We are going to have to move back to item 1, which is the Office of the Speaker.

**Mr. Stokes:** I am sorry; I missed item 3, the chief election officer?

**Mr. Chairman:** Oh yes; you did.

**Mr. Stokes:** I notice in my book it shows an amount of \$1,000. I don't have the supplementary before me, but obviously that must have been brought up to date.

**Mr. Chairman:** It shows on page 9 salaries, wages and employees' benefits totalling \$340,300 less recoveries of \$339,300. It was explained by Mr. Bailie that it is a kind of in-and-out figure.

**Mr. Stokes:** How do you recover \$339,000 from elsewhere?

**Mr. Speaker:** It is a service that is supplied by the office of the administration to the election office.

**Mr. Stokes:** Is it a change in accounting?

**Mr. Miggiani:** Mr. Chairman, they are still on our payroll. We provide that service for them. We give them their cheques and then we cover the cost of their salary every month. We cannot introduce a negative budget, so the \$1,000 is really a token amount. It doesn't mean anything.

**Mr. Stokes:** But it was never shown in that way in previous years?

**Mr. Miggiani:** No, because in previous years they didn't assume the cost of their salary out of their statutory vote. Now that has changed. It was very convenient for them to remain on our payroll and then we bill them for the amount of their gross pay. That is why in the budget we show a gross and a net. We show the total value of the salary we are going to bill them, the salary they have in their budget. We bill them for every cent, but in our system we cannot show a negative amount. The \$1,000 is really a token amount so that it will get printed. This is the policy of the Ontario government. It is an accounting method really.

**Mr. Stokes:** I don't understand it but I will accept it. It has never been done that way in the past.

**Mr. Miggiani:** No, it hasn't. This is the first time that it has happened.

**Mr. Stokes:** One would wonder.

**Mr. Fleming:** Mr. Stokes, in the past the election office submitted an estimate to the Board of Internal Economy for these expenses, but recently it was decided that those expenses should be taken out of the statutory amount whereby the election office is able not only to run elections but its entire day-to-day administration. In a sense, we are simply acting as the bookkeepers and the paymasters.

**Mr. Stokes:** That's right. Anybody looking at these documents who wasn't aware of the way in which we order our affairs around here would think that's a pretty efficient operation down there, just \$1,000. Has the auditor had anything to say about this change?

**Mr. Miggiani:** They are fully aware of the change.

**Mr. Fleming:** Yes. The auditor recommended that it be handled this way.

**Mr. Miggiani:** They recommended that it be handled this way in the first place. That's why it was switched.

**Mr. Stokes:** I see.

**Mr. J. M. Johnson:** Mr. Chairman, I had an inquiry the other day about the art we have in this building. I'm looking at a masterpiece. The

question was put to me as to the jurisdiction of the Speaker versus the Ministry of Government Services over the wall space for art.

The point we're trying to make is that we should devote some of the space to living Canadian artists and possibly even artists from Ontario who are trying to sell and become established. This would be an excellent place, some section of this building, the first floor or the basement.

Mr. Speaker and former Mr. Speaker, I don't think in terms of removing the Speakers' portraits. Those are quite appropriate and should stay there. Some of the other art certainly could be moved around and some space allocated to living Canadian artists so that they would have an opportunity to display in a public forum the work they can do.

There could be procedures set up that they have a rotation basis, X number of paintings for certain periods of time. We could do a service for the artists of this province in terms of the program that Citizenship and Culture has, the Half-Back program, I believe it's called, for Wintario tickets. I would like you to consider it. I'm not sure of the jurisdiction between your office and Government Services; do you have jurisdiction over some of the wall space?

**Mr. Speaker:** I think that's fair. The art work is supplied by Government Services and overseen by Government Services. However, just commenting on what you've said, these paintings are on loan; they are not purchased. They are brought in to do exactly the same thing you are talking about, to give exposure to budding Canadian and Ontario artists. They are rotated as you know on a fairly regular basis.

**Mr. J. M. Johnson:** My colleague suggests, could we send it back?

**Mr. Speaker:** Yes, we could do that, but I have no guarantee what we might get in return. If you have any personal preference, maybe you should—

**Mr. J. M. Johnson:** No, I don't have any personal preference. The only point I was trying to establish is that many of the pieces of art that we do have are products of artists who have since passed away. Certainly we should display their work as well, but could we not have one allocation in this building that could be devoted to living Canadian or Ontario artists?

**Mr. Speaker:** I don't see anything wrong with that and it's a worthwhile suggestion. However, I would point out to you that a lot of the art work to which you are referring has been donated or

bought over a period of many years, has been in storage until fairly recently and has seen the light of day for the first time in many years, and I think that is very commendable. However, it would be worth while looking into the suggestion you have made.

**Mr. Nixon:** I appreciate Mr. Johnson raising the matter because it is a very important one. I established my international credentials as an art critic when I said I liked the portrait of Mr. Speaker Stokes.

**Mr. Stokes:** You and Adrienne Clarkson.

**Mr. Nixon:** Oh, well, good company. Every time I walk by it I say, "I know that guy."

The idea of having a rotating series of pictures is an excellent one. Even though I don't like that one very much, at least it's got us talking about art and paying some attention to it and that's a good idea.

We have a number of plaster busts of worthies from the past through the halls. A small point. The identification is on a fake plinth made out of plywood, painted marble, but the identification is down on the side. I defy anybody who is more than two and a half feet tall, particularly anyone who uses bifocals, to read those things. They should either be made in Braille or moved up to the top so that you can look down on the top of the plate to see who these fellows are. That's just a small suggestion.

**10:40 a.m.**

I would like to say one other thing, with my well-known taste in portraiture. Some time when we get back, when our budget is not so pressing, I would like to have another go at a portrait of John P. Robarts. I really don't think that's a good portrait in my opinion.

Maybe we could give the one we have now to the Art Gallery of Ontario or to the Robarts Library or to the Robarts School for the Deaf in London or any of those institutions we have and try again. I wouldn't even mind getting the person who painted Mr. Speaker Stokes, although that process works better when the subject can sit for the portrait. I just think that's not good enough for Honest John and I would hope that some time we might gather ourselves together and take another shot at it.

**Mr. Hennessy:** Send the other one to Nipigon.

**Mr. Speaker:** I would think, as you well know, that this is a very personal decision, how and where and when and who does the art work. There are other paintings available, of which one I've seen is extremely pleasing to my eye.



However, I don't think I have any jurisdiction over that.

**Mr. Nixon:** I would think you do. Also, we have to look at it and that's got to be the test.

**Mr. Stokes:** Obviously you haven't spoken to the Premier (Mr. Davis) about it because I know there were a bunch of—

**Mr. Speaker:** I wouldn't like to jeopardize the impartiality of my office.

**Mr. Stokes:** Come on, now, we're not that naive.

**Mr. Martel:** What about the Premier's taste?

**Mr. Stokes:** People feel very strongly about it, particularly those who knew John Robarts. I know he felt it was done, there was money invested, and so it should remain. But for everybody else who knew him, that certainly doesn't do justice to him. I think the point that Mr. Nixon makes is very well taken. If you know of another portrait that is available—

**Clerk of the House:** The one that was in the rotunda is one.

**Mr. Speaker:** At the funeral.

**Clerk of the House:** That belongs to the family, I believe, but I don't think I ever saw a better portrait.

**Mr. Stokes:** I think it's something worth considering because anybody who knew Mr. Robarts and got to love him the way anyone who really knew him did—I think that can be done and it should be done.

**Mr. Hennessy:** If I may, I would just ask Mr. Stokes about his portrait. Would you be in favour of having it replaced with another one? After all, it's yours and you may object.

**Mr. Nixon:** It's good.

**Mr. Hennessy:** Do you agree, Mr. Nixon?

**Mr. Speaker:** The point I'm trying to make is that it is a personal decision as to the type and style of the portrait and the person who paints it. Whether we should interfere or not, I don't know.

**Mr. Hennessy:** That's right. We don't want you standing up in the House.

**Mr. J. A. Taylor:** John, shall we wait till you die or until you retire before we replace your portrait?

**Mr. Stokes:** It's there. I may not like it, but it's me.

**Mr. Nixon:** It's good art.

**Mr. J. A. Taylor:** You're a devil for punishment, that's all I can say.

**Mr. Chairman:** Any other questions on this vote?

**Mr. J. A. Taylor:** Mr. Chairman, who is in charge of this kind of thing, the microphone and the desks? Is that this office?

**Mr. Chairman:** It would be Hansard, I suppose, yes.

**Mr. J. A. Taylor:** I'm wondering if this is appropriate because we've been talking about portraits. Looking in front of me, I see pieces ripped off the siding of the desks and that kind of abuse. I'm just wondering if there is some way of having a staff that could transport this, when necessary, in a more gentle fashion. It just seems so unnecessary to abuse the fine cabinetry we have.

Is it possible to deduct damage from someone's pay so that people take a little more care in transporting and storing this kind of furniture?

**Mr. Chairman:** I used to operate a furniture moving business and I found it very difficult to deduct any damage or breakage from my employees' pay.

**Mr. J. A. Taylor:** I say that semi-facetiously, but surely we could be more selective in the calibre of people whom we appoint to look after the furnishings. Look just in front of you, Mr. Chairman. There is a big strip torn off the covering. The abuse is criminal.

**Mr. Martel:** It was a member who did that.

**Mr. Speaker:** Mr. Chairman, if I may, the problem is that it has been taken apart, moved, brought back and put together many times. The problem is simply that it should be left someplace on a permanent basis and not be disturbed. However, we don't have the facilities or the room to do that.

**Mr. J. A. Taylor:** Because I have some appreciation for nice workmanship, I hate to see it abused. It would seem to me that it's very abused.

**Mr. Chairman:** I would think that what you're talking about would probably fall under the Ministry of Government Services as opposed to this one.

**Mr. J. A. Taylor:** I asked first before I raised the point.

**Mr. Fleming:** The moving of the furniture does come under Government Services, and I think we're also developing a slightly lighter type of desk. There is some problem in that these were made far too heavy; I think that might be a factor. Mr. Brannan is the one who is directly involved in it.

**Mr. Chairman:** We're sliding, I think, into item 4. I'm not sure if we really ought to get into this at this point. Go ahead, Mr. Brannan. Maybe you can add something here.

**Mr. Brannan:** Yes. We were only involved in the selection and design of the desks to the extent that somebody thought it would be a good idea if ours could be more mobile, as they are in the conference room in Ottawa.

The Ministry of Government Services sent some people to Ottawa to study the desks there, and they came up with this copy of it. We're only responsible for the electronics installed in the desks. We're not at all responsible for their fabric. I know there has been some difficulty. They have sometimes had to be taken apart very quickly and put back together again. I suppose the constraints of time have caused the people who have the moving job to do a bit more damage than they might otherwise do.

I do welcome some improvement. There were a lot of designs being considered. I think the object of the exercise was to produce something that could be put into a number of configurations, to accommodate an unlimited number of members—up to about 15 or 30 members—but to be knocked down for a small committee if we only wanted six or 12 members. I think that was one of the constraints in the design.

**Mr. Stokes:** Mr. Chairman, with the pressures we put on both MGS and Hansard almost to have an instant setting-up of committee rooms for all the reasons that we change our mind about around here, I think they both do an excellent job.

There was one situation where they had to make a committee room out of the board room in the basement of the north wing within the past few months. How they managed to get all that equipment in there and make it operational as a temporary committee room is beyond me. There were a lot of wires around, but at least it was functional.

Sure, Mr. Taylor makes a good point, but under the circumstances and the pressures that we put on both MGS and Hansard, I think they do an excellent job.

**Mr. J. A. Taylor:** I'm not trying to defend myself here after those comments, but the pressures don't seem to be put on those engaged in the transport of this equipment, if you watch them: the rate at which they move and the seeming lack of care, banging through doors

and not being too careful in what they hit with the furniture.

I'm suggesting that just because it is public property doesn't mean there should be a reckless disregard for that property. I'm sure if they were moving their own furniture in their own homes they would be a little more careful.

Maybe that's too much to expect of someone today. Maybe it's an attitude of a man who is obviously old-fashioned. Maybe we should have all plastic, indestructible material that we can use carelessly. I point that out to you with the hope, if not the expectation, that some care would be exercised in looking after public property.

10:50 a.m.

**Mr. Chairman:** Thank you for your comments, Mr. Taylor. I don't know what this committee can really do about it, but we can pass your comments on. Perhaps you can make your own thoughts known to the appropriate ministry. I really share your concern.

**Mr. J. A. Taylor:** I would hope someone besides myself would do it.

**Mr. Speaker:** It has been noted and shall be done.

**Mr. Stokes:** Before we get down to item 9, administration, I would like to refer to a document that was put together. It's the Canadian Legislatures 1982 comparative study. It's the only place in Canada, or any other jurisdiction for that matter, where there is a comparative study of the way in which legislatures run their affairs and of the responsibility of the Speaker as the chief administrative officer. For any of you who have taken the time to read that document, I think it does us all proud. I would like to pay particular tribute to Mr. Fleming and Mr. Mitchinson.

If you look at what historians like Paul Fox have to say about its worth and the ready access for a comparison of the way in which legislatures run their affairs on an administrative and services-to-members basis, it's an excellent document. I was doing some research for this and I noticed that the author of a paper written in Australia thought Ontario was leading the way in terms of ordering its affairs.

In the document, which was compiled after having interviewed all 13 Speakers in Canada, the conclusion drawn was that the Speakers saw the benefit of consolidating legislative offices, members' offices and support staff under the same roof. This is not always physically possible. In Nova Scotia, Prince Edward Island, New

Brunswick, Quebec and Ontario, it was recognized that it would require the designation of an annex adjacent to the legislative building.

I know all the anguishing you do, Mr. Speaker, when people come to you and say, "We need some space to accommodate somebody who does yeoman service for us around here." I'm wondering where we are with regard to the Ministry of Government Services' proposal for additional space made available for the legislative process around here and under the aegis and the purview of the Speaker.

I know these things are always put on the back burner in times of restraint and we tend to forget about them, but we are coming along to a redistribution that takes place about every 10 years. If it follows the past pattern, in 1985 the Electoral Boundaries Commission will be making some recommendations for a redefining of electoral boundaries.

I do not think it is any secret for the people who have studied this, from the Camp committee to the Morrow committee, in this jurisdiction it is obvious the amount of space that is allocated to the Speaker to carry out his responsibilities is completely inadequate. There is not enough space. Most of the cabinet ministers are accommodated reasonably close to this building and can come in, but there are parliamentary assistants who are not accommodated in this building simply because there is not enough space.

I would like to ask you directly, Mr. Speaker, have you had any discussions with the Ministry of Government Services, so that it sort of takes the almost constant pressure off you, to provide accommodation, particularly for support staff?

**Mr. Speaker:** I think it is fair to say that negotiations and discussions are on an ongoing basis, but what you say is quite true. Also, in a period of restraint, the priority tends to recede.

The problems are well known. There is no point in reciting some of the obvious. I have some rather strong feelings on the space allocated to certain ministers, which is rarely, if ever, used. That is a situation you are well aware as well.

To answer your question specifically, however, we are trying to make progress as quickly as we can and impress upon the powers that be the seriousness of the situation and the philosophy behind it as well.

**Mr. Stokes:** I am sure Mr. Brannan can tell you of staff who assist him in his duties who are not in this building. Dr. Land mentioned two

locations where staff are located, one up on Bloor Street and one down in LuCliff Place.

**Mr. Speaker:** The same is true with the administration as well. I was trying to point that out.

**Mr. Martel:** There are plans to build new buildings for civil servants over on the corner of Bay and Wellesley. That is the recommendation from the Ministry of Government Services. The irony of it all is that, having looked at it for years, they have now decided—I remember sitting next to Bob Nixon as they made their presentation; without reading it, I turned to Bob and said, "Just the way this report is progressing, by the time we get to the end of the report, it will be a recommendation for a new building over yonder for the civil service."

Sure enough, when we got the report, that is exactly what they had: new buildings for civil servants across the road. They are not fooling anybody. In this place, for the members of the Legislature it is like everything else, they place last or low on the totem pole.

**Mr. Speaker:** Just following up the remarks of Mr. Stokes, I think it should be said that other legislatures across Canada look to Ontario for advice, direction and so on. It is interesting that the problem that exists here is also a problem right across the country. Some of the legislatures have tried to deal with it, but it is a matter of space. Even if we had everyone allocated properly, there is not enough space in this building to accommodate everyone. Therefore, a recommendation, or an observation, has been made, as contained in the report, that additional space will be required in the form of an annex or whatever.

**11 a.m.**

Because we enjoy certain services, as supplied by Dr. Land and others, we tend to think that it's the norm across the country. I can tell you, it isn't. I had the opportunity of going across Canada and visiting the legislatures, the Speakers and so on, and while we do have a lot of warts, we have come a long way. We are still miles ahead of everybody else. I hope we can maintain the lead.

**Mr. Eakins:** We have a government building at Lindsay with lots of space. We would be glad to make that available to you.

**Mr. Speaker:** If you're suggesting the Legislature move to Lindsay, I think that would be difficult.



**Mr. Nixon:** No, but the NDP caucus could go there.

**Mr. Speaker:** It would be great for you and me.

**Mr. Eakins:** We just want to accommodate the needs here at Queen's Park without added expense.

**Mr. Speaker:** Maybe we could take it over for constituency work.

**Mr. Chairman:** The Speaker has made note of the availability of the buildings.

**Mr. Speaker:** Beautiful buildings too.

**Mr. Martel:** You might want to put it in the centre of the province. That's 100 miles north of Wawa.

**Mr. Chairman:** Are there any other questions of the Speaker?

**Mr. Stokes:** I know the funds are not in this office, but I feel compelled to speak out on the inappropriate amount of grants to parliamentary associations. That's in the clerk's office. You can argue it both ways. It is \$23,500.

Some of that goes to the Commonwealth Parliamentary Association. I notice there is a reduction in that amount since we have not allocated any funds in this fiscal year for the Centre for Legislative Exchange. I wrote to you about it, Mr. Speaker, and I shared a copy of those comments with the three House leaders.

Mr. Gordon Miller, Mr. Alan Robinson and I were invited out to Winnipeg in July for a three-day seminar on western transportation problems. Every legislature, including the House of Commons, from Quebec right out to British Columbia was represented at that conference. It had to do with the Crow rate, with the abandonment of some rail lines and the rehabilitation of other rail lines.

For anyone who knows what is going on in Canada, it has a very profound effect on the economy of Canada. It is an excellent forum for members of this Legislature to become more familiar with the problems in other jurisdictions and the ramifications of any change for the average taxpayer right across Canada.

In the letter I wrote to you, I gave you a rundown of the types of problems they sit down and try to analyse and make legislators aware of. It's a very modest sum. In previous years, we dedicated something like \$20,000 to it. It's my understanding that this year they're asking for \$16,000, which would be roughly our share. I understand this has been brought before the Board of Internal Economy and, for some

reason which I do not know, there wasn't an amount allocated for this.

We can become very introverted in the things that we do around here on behalf of our constituents, and in the overall scheme of things with regard to our concept of a parliamentary democracy. What we must do, and I think it's absolutely essential, is keep the lines of communication open, not only under the auspices of the Ontario branch of the Commonwealth Parliamentary Association, but in terms of legislative exchanges where we can sit down and talk to our counterparts in Ottawa, Quebec City, or literally any other jurisdiction across Canada.

A very modest sum is being requested. Were it within my power, I would make a motion that whatever vote it should appropriately come under, whether it's the Office of the Speaker or the Office of the Clerk, it be increased by \$16,000. I know that the Board of Internal Economy has that within its power.

I don't presume to speak for any other member but myself, but I have had conversations with members of the Conservative caucus and the Liberal caucus who were extolling the virtues of this kind of forum so we can be more familiar with what is specifically bothering other legislators but which also has real impact on every citizen of Canada. I think we have the responsibility to become better informed and have that ongoing liaison. It may only happen once a year, but it's a very specific problem.

I know one that's coming up very shortly. It has to do with the automobile industry in Canada. We all know the major part of that is centred in Ontario. If we opt out of that very process, we're going to come out with egg all over our faces. If we have the Centre for Legislative Exchange talking about the automobile industry, which is so crucial in the manufacturing sector of our economy, and we're not there because we can't come up with \$16,000, I think we have our priorities way out of whack.

As I say, I don't know what went on in the Board of Internal Economy. I don't know what kind of discussions you have had with other jurisdictions. I know some other jurisdictions, for their own reasons, haven't come forward with their share of what it would cost to keep these exchanges going. But Ontario, as you well point out, has been a leader in this. If other jurisdictions want to drag their feet, let it be on their heads. I think it's absolutely essential that we get involved in those kinds of discussions and make it possible for a group to participate.

It doesn't have to be a large group. You could sit down with 16 or 18 legislators from right across Canada and it would be a representative group. We would be in the ball game. If we fail to come up with what I think is our responsibility to keep such an excellent exchange going, I think we do so at our own peril.

**Mr. Martel:** I just want to follow up on that. Jack mentioned this to me some time ago.

The reason we decided not to support it—and I hope I'm talking about the same group—was because we were advised at the board that no one else was contributing, or it was down to just two provinces and the rest were out. That was the reason the board members, on that information, decided not to support it. It seemed that Ontario was really one of two places, or three at the most, that was in the act.

I don't try to speak for the other members, but I notice Mr. Nixon nodding his head because that's his recollection as well. If it's the same group, maybe we should find out precisely how many provinces do contribute to this. If Ontario is odd man out, almost, I think the Board of Internal Economy would be prepared to look at it. Based on the information we had, no one else was in.

**11:10 a.m.**

**Mr. Nixon:** I remember it the way Elie does. One of the feelings I had was that we do not participate in the Centre for Legislative Exchange in any way except by sending them money. The question is, who are they, other than an extremely bright individual who, no doubt, has cranked this thing up on a nonprofit basis after expenses to provide this sort of thing?

I have never attended one of these, but I know that others have, including David Peterson, who has told me what an excellent program he attended on one occasion some years ago. This was not part of the discussion at the board that I recall, other than the feeling that other provinces felt they were not going to continue to fund this particular forum.

We do participate in two organizations, the Commonwealth Parliamentary Association and the International Association of French-Speaking Parliamentarians. We do elect people to their governing bodies. We contribute funds for their central support, and we assist our own members to take part in the work that could perhaps be expanded.

The last thing I want to suggest is that the centre Mr. Stokes is referring to is not properly run, because we have just the opposite informa-

tion. But who are they? What is it, other than a capable person who has more or less got out some stationery and asked for contributions and then asked parliamentarians to take part?

Why can't we do this through our own organization? We have already discussed to some extent the fact that our parliamentary involvement might be substantially upgraded right here in Toronto and for the province in our participation with other provinces. We always send properly constituted delegations to all of these things. In some respects, I feel our parliamentary organization in Ontario is not as active as it should be.

We've tried it a couple of times. As a matter of fact, I recall having a dinner, perhaps it was in this very room. Somehow or other on that occasion, we missed the spirit of moderate exchange of parliamentary views and concentrated on the conviviality of our association.

**Mr. Stokes:** May I respond to that. If you're talking about the Commonwealth Parliamentary Association, the Speaker is the president and the Clerk of the House is the secretary of that body. But if you look at all the literature that comes out of those exchanges, we deal specifically with legislative or parliamentary matters. That is the nature of that entity. We do that.

If you're talking about the International Association of French-Speaking Parliamentarians, they deal more with the linguistic thing. This group deals with the St. Lawrence Seaway. All parties sent people to that. If we're going to be involved in what the St. Lawrence Seaway is all about, we have to be involved in other transportation matters, as I was involved in July.

We have to be involved in a review by parliamentarians where they bring in experts, real expert people in their field. It's done at a very modest sum. I think the entire program was run last year for something like \$100,000. I shared the topics with you in my letter. There really isn't another such forum.

The thing is, if you wanted you could expand or change the terms of reference of the Commonwealth Parliamentary Association to involve that kind of thing, but it may be dangerous if you did it. If you do it under the aegis of the Commonwealth Parliamentary Association, it's supposed to be nonpartisan, apolitical, more oriented toward legislative and parliamentary matters. I hold no brief for Doug Rowland in Ottawa who runs this excellent program, but it's filling a void. I think it's absolutely essential that

we support it and keep involved in it until a better vehicle comes along.

After having listened, last July in Winnipeg, to all of the delegates who expressed how worth while that was, including Mr. Robinson and Mr. Miller, who were with me on that occasion, I think it is a very modest sum. There is no place where you will get a bigger bang for your buck in terms of keeping our own legislators involved and informed on matters of not only provincial but Canada-wide concern. I cannot put it stronger than that.

**Mr. Martel:** Maybe we could get an answer to my question. I still have not received it, as to who, in fact, contributes.

**Mr. Speaker:** If I could just back up a little bit I can give you some statistics and if you have your pencil there you can copy them down.

From October 1, 1981, to September 30, 1982, Ontario contributed \$20,000, Quebec contributed \$14,900, Nova Scotia \$2,000, New Brunswick \$1,400, and the Canadian government \$40,000. You see again, as so often, Ontario has taken the lead in recognizing not only the importance of the concept but the funding of it as well.

Having said that, in securing background for the former legislative studies across Canada, and I alluded to that earlier, and in visiting various legislatures and various Speakers, I found there was universal dissatisfaction raised with how that program and that organization were run. In particular, there was very strong criticism of Ontario's participation.

As a result, at a regional Commonwealth Parliamentary Association meeting in Ottawa, a task force of four Speakers was formed—I am also a member of the task force—to look into this specific question, to consider the concerns that were raised and to see if there is not a better vehicle, or any other vehicle, that can be funded to do a similar sort of thing. I do not think I am telling tales out of school, but I guess the approach to the various provinces was, to be charitable, not seen to be factually correct in some of the statements that were made.

That task force meets on a regular basis. Our next meeting is going to be in Toronto, and we will have a report some time in 1983.

Having said that, for this current year, October 1, 1982, to September 30, 1983, the Canadian government has again contributed \$40,000. Manitoba is the only other participant at this point with a contribution of \$2,130. I want to stress very strongly and very clearly that, in my view, this kind of participation is not only worth

while, it is essential. I am doing everything I can from my office to strengthen this exchange of ideas and visitors on an interprovincial basis, to get a better understanding of the needs and the problems in various parts of the country.

How the meetings themselves should be run, how they should be funded and by whom they should be organized, is a question on which the task force is going to make recommendations.

**11:20 a.m.**

It is not a question of failing to recognize that it is worth while, if you like, but rather a matter of who is going to do it and how it can be done, if it can be done any better under the existing umbrella groups. I think it is fair to say that, contrary to what has been expressed, there has been no formal request made of Ontario to date that I am aware of.

**Mr. Stokes:** There hasn't?

**Mr. Speaker:** No.

**Mr. Stokes:** Why did you have it before the Board of Internal Economy, then?

**Mr. Speaker:** That was some time ago, I forget the exact date; it was in the spring.

**Mr. Fleming:** There was a request made to repeat the \$20,000. It was made, I guess, last spring, and turned down at that time. There has since been no other contact.

**Mr. Stokes:** Mr. Speaker, I don't want to put you on the spot. However, as one of the people on this task force made up of four Speakers to see if it is worth while, and perhaps a better vehicle, whom are you talking to?

I don't know who attended the Seaway seminar. I know that Mr. Foulds, from the Port Arthur riding, thought it was excellent. I know that there were representatives from the other two parties at that. Mr. Peterson has been involved.

I have only been to one of them. I think they are just excellent. We will be missing the boat if we do not participate in this one until we get a better way of doing it.

**Mr. Nixon:** May I just ask a question before you proceed? I mentioned Dave Peterson's name. It seems to me that the one he went on was in Washington, run by Peter Dobell. Perhaps this was not the same thing.

**Mr. Speaker:** Yes, it is.

**Mr. Nixon:** I do not want to mislead you, because I know there was some other organization which asked for people to go on, and I just thought it was the same one. I have a feeling, now that you mention it—I thought it was Peter



Dobell but now you mention another man whom I do not know; I think perhaps I should just make it clear that this is something else.

Go ahead. I'm sorry.

**Mr. Fleming:** Just to clarify, Mr. Nixon, there is the Parliamentary Centre for Foreign Relations which Peter Dobell has maintained for some years, which basically exchanges between Ottawa and Washington. In the last three years, he has constituted the Centre for Legislative Exchange, which endeavours to exchange between the provinces.

**Mr. Nixon:** It's very good that these generous people are putting their time towards that sort of an organization.

**Mr. Speaker:** To answer your question specifically, and I thought I had made it very clear, the concept is not in question. It is the question of how it is going to be delivered and who is going to deliver it that is being considered.

There is no doubt in the minds of any of the Speakers, or any of the members of the task force, of the value of this type of exchange. In fact, we support it 100 per cent. Because of questions which were raised it is just a matter of how the approach was made, and I guess that offended some people more than others.

It raised the next question: is there any better vehicle through which to deliver a similar program? Really, that is what the task force is looking at. The concept is not in question at all.

**Mr. Martel:** One other question with respect to that organization: do they not send a volume of material to us three or four times a year?

I have attempted to find, among my colleagues at least, whether they are in fact receiving the material. None of my colleagues can recall receiving it in the last eight, 10 or 12 months, although I am told it is sent here.

Where is it ending up if it is not being distributed to the members?

**Mr. Speaker:** I don't know.

**Mr. Nixon:** Is that the organization that Holtby was associated with?

**Mr. Speaker:** Yes.

**Mr. Nixon:** I thought it was delivered.

**Mr. Martel:** I haven't seen it, and I have asked my colleagues if they were receiving it. I think it is sent every three or four months. I am told it is being sent here. I am also told that none of my colleagues has received the last three or four copies of it. I would like to know where it is going.

**Mr. Speaker:** I don't know, but we should look into that and find out.

**Mr. Fleming:** I understand that the publication in question is meant to be distributed to every member of every legislature of Canada. I think we have seen one recently, but it is done entirely on an individual basis.

**Mr. Martel:** What do you mean, "it is done on an individual basis"?

**Mr. Fleming:** It is my understanding that it is directed to individual members of legislatures or caucuses, but we certainly don't receive any—

**Mr. Nixon:** Aren't we supposed to subscribe?

**Mr. Martel:** No, it is sent to the assembly. I just want to know where it's going.

**Mr. Fleming:** No, it isn't sent. There are no bulk copies. The Speaker receives—

**Mr. Martel:** I thought there were. My source is Mr. Dobell because, as Mr. Speaker Turner knows, Mr. Dobell was at the parliamentary conference in Yellowknife. He'd asked me if I had seen the recent editions, and I said no.

**Mr. Fleming:** We have never received—

**Mr. Speaker:** I know I got a copy.

**Mr. Martel:** Could we have the staff check, even, if necessary—

**Mr. Speaker:** Sure. What you are suggesting is that maybe it is coming into the post office.

**Mr. Martel:** I don't know where it is going.

**Mr. Speaker:** No, I don't either.

**Mr. Martel:** I would just like to know where it is going.

**Mr. Speaker:** I thought it came in on an individual basis. 21Mr. Martel: He asked me if I was receiving my copy. That is why I raised the matter.

**Mr. Chairman:** I wonder if we have spent enough time on this particular item. Perhaps the Speaker knows what our wishes are. If we could move on, we have about an hour and a quarter left of these estimates.

The clerk has advised me that this discussion should have been under item 2. Are we prepared to vote on item 1 of vote 1001? Shall item 1 carry?

Item 1 agreed to.

**Mr. Chairman:** Item 2, the Office of the Clerk—oh, I'm sorry, there are supplementary estimates under that, too. Shall the supplementary estimates of \$16,000 carry?

**Mr. Stokes:** Just a moment, I don't have the supplementary estimates. What is the nature of the additional \$60,000?

**Mr. Chairman:** It is \$16,600.

**Mr. Stokes:** Oh, just very briefly.

**Mr. Chairman:** Transportation and communication, \$6,100; services, \$2,600; supplies and equipment, \$7,900. I haven't any detail on those.

Supplementary estimate agreed to.

On item 2, Office of the Clerk:

**Mr. Chairman:** Are there any questions of the Clerk?

**Mr. Stokes:** I would like to know how many clerks we now have. What has been the increase since last year, and what specifically are they doing?

**Clerk of the House:** There is no increase. We have the same number we had last year.

**Mr. Stokes:** How many did you have last year?

**Clerk of the House:** Including myself, five committee clerks and three table clerks; eight.

**Mr. Stokes:** I am interested in the emolument that is now paid to the Clerk. I do not know what it is for this year, but in public accounts for last year it was \$73,000. What is it this year?

**Mr. Fleming:** It is \$77,375.

**Mr. Stokes:** How does that compare with other people? I would take it that this would be the equivalent to a senior deputy minister.

**Mr. Fleming:** It is the highest level, yes.

**Mr. Stokes:** Who would that compare with in the civil service?

**Mr. Fleming:** It would compare with Dr. Stewart. I would not be able to tell you how many other deputy ministers there are at the top level.

**Mr. Stokes:** We have just passed an estimate for the chief election officer, Mr. Warren Bailie, and in the public accounts for 1981-82 he was paid \$50,575. I imagine it has gone up since then.

**11:30 a.m.**

The Clerk held the combined offices of Clerk of the House and the chief election officer; these offices have been split now and our Clerk no longer has any responsibility for the operation of the election office, which means that his responsibilities have diminished considerably. I know that he used to go down to the election office on a regular basis. I can only assume that he no longer does that.

Mr. Speaker, I am wondering whether that has been taken into consideration because we now have the Clerk at, I am told, \$77,375, when his responsibilities have diminished considerably in the past year. I am wondering if you are looking at that.

**Mr. Speaker:** As a matter of fact, it is a question of not only looking at it, but it had been raised by myself some time earlier. Perhaps the Clerk might be the better person to address it because of his involvement.

**Clerk of the House:** Thank you, Mr. Speaker. The point is that my salary is exactly the same as any other senior deputy minister's. It is based on the level of senior deputy minister. It has nothing to do with the election office; in fact, it never did.

When I was appointed assistant chief election officer in the first place, then eventually chief election officer, the extra appointment made absolutely no difference to my emolument. Neither did it make any difference when I passed it on.

As far as my responsibilities are concerned, the reason for passing it on was that the two jobs had just become too big for one person to handle, with the growth of the province, the increase in the length of the sessions, the increase in the size of elections, every election. It was just too much for one person to handle. It became obvious that there should be a separate chief election officer.

I made that recommendation some years ago. I spent seven years, I guess, at least, in training Mr. Bailie to take over, and when we felt the time had come for him to assume that responsibility, I turned it over to him.

I should perhaps say, in fairness to myself, that I am not entirely out of the picture yet because I act in a consultative and advisory capacity to Mr. Bailie. As a matter of fact, when problems come up as they do quite frequently he consults me, by telephone or in person, because, as he said one day, there is very little that happens that has not happened some time before in my 36 years here. When a problem comes up, he phones or comes up and asks, "Has this happened before and, if so, what did you do with it?" I am able to tell him from past experience.

I have also been able to give him some material for what you might call a precedents book in which he has jotted down some of the things I have given him over the years and recently.

That aside, the election office never had

anything to do with the level of my salary. It is based on the fact that, as Clerk of the House, I am a senior deputy minister.

**Mr. Speaker:** What the Clerk is saying is that he was not paid anything extra for his duties as election officer.

**Clerk of the House:** For instance, when my predecessor was appointed, he was simply called in and told that he had been made chief election officer while he was away, but it made no difference to his remuneration whatever.

**Mr. Stokes:** No, I noticed that. I think that a salary well in excess of \$50,000 adequately reflects the importance of having a very efficient chief election officer and I am satisfied that we do have an excellent person. I know this has been raised to me and I said, "I don't know, I will certainly bring it up in the estimates and get it clarified." You have done that.

Mr. Speaker and Mr. Lewis, I want to refer to an article called Parliament and Bureaucracy. It was edited by a J. R. Nethercote. It has to do with the way in which we order our affairs as a legislative assembly, apart and removed from the government, whether it is Westminster or any other jurisdiction.

Quoted in this article is a chap by the name of Compton. It says: "Compton expressed the view that, whilst the British Speaker definitely had control over the accommodation and services of the part of Westminster Palace occupied by the Commons, there was doubt about the Speaker's authority over the Clerk of the House, although his control over other officials was clear. Compton's solution was to create a unified parliamentary service reporting through the Clerk as accounting officer to the Speaker, but strangely he saw no need to change the then existing practice whereby the Clerk would still be appointed by the crown on the advice of the Prime Minister, with the Speaker being merely consulted."

Arthur Bottomley, who is well known to people who have been involved in Commonwealth Parliamentary Association matters over the years, was charged with the responsibility of bringing in a report. The Bottomley report, on the other hand, rejected such a hierarchical structure for the parliamentary service because it saw a need for the Speaker to have direct contacts with other staff, especially the head of parliamentary departments.

I know this is a very touchy issue, and it does raise its ugly head from time to time when people want something to beef about around

here. I am not dealing with people, however; I am dealing with the way in which we order our affairs.

You, Mr. Speaker, as the head of your own ministry, if you will, are responsible for maintaining the independence of the Office of the Assembly and of the Speakership, not only in theory but in practice.

I know it is always a delicate subject to bring up when we have all of the people involved here, and I know it is unfair of me to ask this of you because you have not only to be independent but must be seen to be so. I am wondering, does it bother you—I know it bothered me—when we are talking about the Clerk, who reports directly to you, whether or not you feel there is that degree of independence that is necessary?

**11:40 a.m.**

I know we do not change Clerks very often around here, but I think the perception should be that since he is responsible to you, you shouldn't be beholden to anyone else or look to anyone else to say, "notwithstanding our independence," and all of this, that you have to rely on someone else to tell you who your first deputy is.

I am not really familiar with the way the appointment of deputy ministers elsewhere operates. I think the Premier says, "So-and-so will be a deputy minister to such a minister." Correct me if I am wrong.

In terms of table officers, however, and officers of the Legislative Assembly, I think it is absolutely essential that we look at, not only in spirit or in theory but in practice, making that separation, so you, Mr. Speaker, will be responsible for the people who are under your jurisdiction. This should be done, notwithstanding the personages and the dedicated service that has been given for years around here.

Don't you think it is time we set the rules in motion that, whether it is the Clerk or—we do not have a first clerk assistant around here now, I do not know whether we shall ever have one again; I happen to think the system is working well the way it is. However, the perception is, for the very reasons I quote, if we are going to have a Clerk, you, Mr. Speaker, should be the person who is ultimately responsible for making that decision. Sure, you can get advice from wherever you want, but the ultimate responsibility lies with you, as the chief administrative officer of the Office of the Assembly and chairman of the Board of Internal Economy.

We have an excellent Manual of Administration that is the envy of every other jurisdiction.



It has been emulated wherever they care a damn about the way in which we conduct our administrative and our legislative affairs. I think it is now time that we take the bull by the horns and say, "We will have complete control over our own affairs," because you have, in every sense, your own ministry here, and I do not think you should be beholden to the executive council or anyone else, as long as we conduct ourselves well, and I am perfectly satisfied our Board of Internal Economy is just an excellent forum.

I know it is unfair to raise it. I have tried to be as charitable and as fair as I possibly can, but I think it is absolutely essential that we just cut that last semblance of an umbilical cord and say, "Let's be masters in our own house."

**Mr. Speaker:** If I may just back up a little bit, Mr. Stokes has referred to the lead Ontario has taken in this regard. We are the first political jurisdiction in Canada to have complete separation between the assembly and the executive. I think it is important to say that because sometimes, maybe in jest, remarks are made otherwise.

**Mr. Nixon:** Except for the clerkship, though.

**Mr. Speaker:** Right.

I read that article with great interest. I was rather surprised at the conclusions that seemed to be reached in it. I guess the practical answer to that is that the appointment of the Clerk is covered under the Legislative Assembly Act, and if any changes are going to be made, quite obviously the legislation has to be changed.

Just so you will know in a practical sense what is happening at the table, the Clerk, of course, is in charge of the clerks at the table. He is also recognized as a deputy minister.

He has designated Alex McFedries, for the time being—and the clerks at the table are in rotation. The responsibility of consulting with me and advising me rests with Mr. McFedries. One of the other clerks, Smirle Forsyth, has the responsibility of consulting with and having control of the clerks at the committee level. That will probably change at the next session.

**Clerk of the House:** He, Mr. Forsyth, is also the reading clerk at present and in charge of Orders and Notices. I also consider him the clerk legal, as he is a lawyer, and so he consults with me on legal problems that come up.

Mr. Callfas is the journals clerk and has been for quite a few years. He has become an expert on this. He enjoys this work and so he has been left alone more than either of the other two for that very reason. He has become an authority on the journals.

Arising out of that, there are the Votes and Proceedings; the compiling of precedents with the assistance of Dr. Graham White; and the status of business. As you will notice, the status of business is printed on a weekly basis. Mr. Callfas is in charge of that, along with his other duties.

**Mr. Stokes:** You've outlined for us, if we didn't already know, what specific duties have been assigned to clerks at the table and to those responsible for the committees.

Just apropos of that, I know that it's the only place we can discuss these things, and they are very delicate: one doesn't want to be unfair about it, but there is a kind of frustration experienced around here from time to time about matters that come up in committee that aren't properly brought before the House, unless there is a deliberate motion made in a democratic fashion in the committee to refer something to the House and to you, Mr. Speaker.

I've been there, and most times we say we're not responsible for something that happened elsewhere unless it's formally and properly brought before the House by way of a motion by the chairman, by way of a report for adoption.

As I said, I don't want to be unfair or uncharitable, but there are certain committee which have had a particularly rough time recently, for reasons known to all of us. That leads me to believe that what we should be doing—and I know you used to do it, but I don't know whether members are becoming indifferent, or whether they felt it wasn't worth while—

**Clerk of the House:** It's a question of time, I think, Mr. Stokes. The members seem to run out of time.

**Mr. Stokes:** You know as well as I do that certain things go on in committee, particularly in a procedural way, that would just be abhorrent. I know you, Mr. Speaker, wouldn't tolerate it in the House, nor would I.

As I said, I'm not being critical of individuals. However, I think it is absolutely essential that if we're going to maintain our credibility about the way in which we operate our affairs, particularly in committees, which are an extension of the House, we should have clerks who are just as well versed, probably even better versed, because they work in their own little cocoon.

The thing is, there are precedents occurring on an almost daily basis in those committees. If we were to compile all those and say, "These are precedents and usages in our committee system,

and they are quite acceptable"—well, I happen to think that they are not acceptable.

As I said, I don't want to be critical of people who have just come in here recently and are charged with the responsibility of presiding over very unruly members. We know the games they play, and everything else. However, I feel strongly enough about the whole process that I think it is absolutely essential, to maintain our credibility, that we operate our committees as we do our House.

I'd like the Clerk to offer some suggestion as to how we can get our house in order.

**Mr. Speaker:** If I may, I would like the Clerk to comment on it, and if I may, Mr. Chairman, I have a few words myself afterwards.

**Clerk of the House:** There are two things I'm doing about that, Mr. Chairman and gentlemen. The first is that I have recently started a series of meetings with all the clerks, both table and committee together. Unfortunately, I haven't been able to do it every week, due to the pressure of all our work, but I have been doing it as often as possible.

I have had three meetings so far with the clerks to discuss their problems, to answer their questions about procedure, to explain things to them, and to point things out to them that have come to my attention—things perhaps that have happened in committee. Those were very valuable and they're going to be increasingly valuable as we proceed with them.

**11:50 a.m.**

The second thing I'm going to do is, right along with something you just mentioned—I mentioned the fact that it seemed to be a question of time. The members ran out of time on the meetings I used to hold with them. I remember, even in your earlier days, Mr. Stokes, that you were one of the most regular attendants at those meetings. They were valuable; I agree with you.

The Speaker has been convening meetings of the committee chairmen lately with myself and the table clerks. We have been trying to meet with the chairmen also. Mr. Gregory informs me that these chairmen have asked me to institute something like we used to have, perhaps even more formalized than that, in the way of some continuing seminars with the members. Just when will be the best time to do those, of course, is something we'll have to explore very carefully.

We were thinking about one thing, for instance, that perhaps at least some of the members might

be willing to come in a day or two before the opening of a new session to hold a seminar for a day or two.

**Mr. Stokes:** I want to say, speaking personally, that I would have no objections. I know the committee chairmen take their jobs seriously, but because of the pressures of time around here, their obligations to their constituents and everything else, chairmanship has become very onerous.

If you have to bring them in at times other than when we're sitting, I'm sure the Board of Internal Economy would have no objections to giving them a per diem while they're down here, for whatever period of time you people collectively think is appropriate in order to carry it on. I think it's absolutely essential.

**Clerk of the House:** My staff and I are not only willing but anxious to do this sort of thing.

**Mr. Stokes:** I'm just talking about the chairmen.

**Clerk of the House:** If the members will agree to it, or if even the chairmen will agree to devote this extra time to it, we certainly will.

**Mr. Chairman:** Speaking as one chairman, I suppose I should say that the meetings that have been convened by the Clerk have been beneficial to all of us. We've gone over a number of suggestions so that we're going to be singing from the same hymn book when it comes to making rulings.

**Mr. Stokes:** That's fine. I am happy to hear that this process is continuing.

**Mr. Chairman:** Mr. Speaker, did you want to add something to that?

**Mr. Speaker:** I just wanted to say that as the Clerk is meeting with the clerks, I am meeting with the chairmen and the clerks of the table on a reasonably regular basis, and also separately with the deputy and acting Speakers.

It's an ongoing problem, but I would ask the indulgence of the members not to confuse political strategy in the committees with the procedural structuring of the committees. You and I both recognize, and we all recognize, that there are tactics used both in the House—

**Mr. Stokes:** No question.

**Mr. Speaker:** —and in committee of a political nature which is certainly beyond my authority and jurisdiction and, sometimes, comprehension.

**Mr. Stokes:** The only reason I raise it is that I think it's absolutely farcical when a motion is passed in a committee that is clearly not debatable, only to find out on the record that they

debated the damn thing for three and a half hours.

**Clerk of the House:** On points of order.

**Mr. Chairman:** Or privilege.

**Mr. Speaker:** Going a step further, too, and blowing our own horn a bit in relation to the Board of Internal Economy and the steps we have taken in this province, we're still the only Board of Internal Economy in this whole country that has members of the opposition sitting on it. That point should be made. That's a plus. It gives us an insight into the problems all the members are facing.

**Hon. Mr. Gregory:** We should probably do something about that.

**Mr. Speaker:** In other legislatures, I can tell you, if you had the chance to view it, you would see the shortcomings.

**Mr. Stokes:** That's not entirely accurate.

**Mr. Speaker:** It is, with all respect.

**Mr. Stokes:** No, no.

**Mr. Speaker:** It was. I know what you're going to say. I stand to be corrected.

**Mr. Nixon:** Do we have other jurisdictions that have this system?

**Mr. Stokes:** Sure, that's right.

**Mr. Fleming:** It's not Quebec, is it?

**Mr. Stokes:** I don't want to read this whole book to the committee.

**Mr. Fleming:** I think Quebec is about to introduce it, and Saskatchewan has, but the House of Commons has not.

**Mr. Speaker:** No, the House of Commons does not. That is the point I wanted to make, because we have so many references to what is going on in Ottawa and yet I think we are quite a piece ahead of Ottawa in many respects.

**Mr. Fleming:** Ontario has definitely set the pattern and we are now being followed everywhere.

**Clerk of the House:** Maybe I'm sticking my neck out by mentioning this, but the section wasn't originally drafted that way when the Board of Internal Economy sections were being set up in the amendments to the act. It was I who made the suggestion that the opposition should be represented.

**Mr. Speaker:** I don't know whether it has been added in those other two jurisdictions yet.

**Mr. Nixon:** We take part in tokenism, to some extent.

**Mr. Speaker:** Go on with you.

**Mr. Chairman:** Are we ready to vote on the Office of the Clerk?

Item 2 agreed to.

Supplementary estimate agreed to.

**Mr. Stokes:** How much is the supplementary?

**Mr. Chairman:** It's \$76,000.

On item 4, Hansard:

**Mr. Chairman:** Perhaps Mr. Brannan would like to come up. Are there questions of Mr. Brannan?

**Mr. Stokes:** I am interested, Mr. Brannan, in the word processing. I know you have been involved in that. I suppose you ploughed new ground around here in terms of the whole word processing operation. What are you doing that is making it easier?

I see you're only looking for another \$22,000 with the pressure that we, collectively, put on you and your staff in the House and in the whole committee system. What do you see as the highlight of your operation over the past year?

**Mr. Brannan:** I suspect you're probably right that the introduction of word processing has been the highlight. We started experimentally in 1979, but it has really only got into stride during 1980 and 1981. It has changed the operation materially in many ways. It has saved us money in printing, but as I note in my comments, it hasn't been a net gain. There has been a small net financial gain by switching to word processing in that we are now involved virtually with typesetting. So we have saved some printing costs.

At the same time, it has involved us in a little more staff time, particularly in the editing end. As far as the transcribing side goes, I think we have picked up a little time and the transcribers are operating more efficiently and more easily than they did before with typewriters.

## 12 noon

We benefited to some extent by the expansion we undertook when Mr. Speaker Stokes was at the helm. At that time, we enlarged our staff and increased our facilities to meet an increased work load during the 1979 period. That work load has since dropped off to some extent and that has enabled us to give the staff breaks that we might have been embarrassed about otherwise.

We are making sure the staff take the proper recommended breaks from their consoles; I think it's 10 minutes an hour minimum. It hasn't embarrassed us, as I said, because we did have a little bit of extra flesh. We find the working



atmosphere in the transcribing area has actually improved. There is a lot less noise. The operators are very happy with the equipment and with the operation, and there is no problem at all.

In the editing area, it slowed some of the editors down initially because they are now working at keyboards instead of with paper and pen. Some of them were a little reluctant, initially, but I honestly feel that has all been overcome. The actual speed of operation is probably equivalent now in word processing to what it was on paper. If I can get more specific and answer any other questions, I'll be glad to.

**Mr. Stokes:** What are the advantages then? You're saying they're becoming as proficient now with the word processor as they were doing it on paper. It hasn't resulted in a reduction in the cost of operation. You're just about as efficient now as you were previously. What advantages are there to it?

**Mr. Brannan:** I guess that's what it must have sounded like, but I can give you some advantages. The printing cost in 1981 was reduced by \$96,000. Our actual cost of rental of equipment was something like \$75,000. That equipment is being leased, so if we keep this equipment beyond the five-year lease period, we could have a substantial net cash gain with the printing saving. Now that we are involved in the typesetting part of the operation, we anticipate the next time we bid the printing contract, we should pick up an even greater financial saving than we have at the moment.

That's probably not the most important advantage or gain. I think the most important advantage has been in our committee reports, the ones that aren't formally printed. They used to go to members previously with all kinds of hieroglyphics on them, changes, crossings out and that sort of thing. Now all those changes are done on the word processing terminal and the final printout is a clean copy. The copies that are used by the library for posterity and copies that members receive of the nonestimates type of committees are pretty good, clean copies. There are a couple of immediate benefits.

I think the working conditions have improved, certainly for the transcribers.

**Mr. Nixon:** Just a small point. Why do we need interjectionists as well as observers in the gallery?

**Mr. Brannan:** That's a good question. The interjectionists are not as well utilized now as they were two or three years ago. They are still necessary as long as we are going to report

interjections. The main reason for the interjectionists these days is if it becomes a debate, a dialogue or a duologue, the operator turning on the microphones can't get the microphone on for an interjection. The transcriber sitting in the gallery often doesn't catch it. I'm sitting beside her. I often don't catch it.

**Mr. Nixon:** Why is she there?

**Mr. Brannan:** One reason she is there is that it is easier when she sits down with her tape if she has a general idea of what went on in the chamber.

**Mr. Nixon:** Why can't the ladies sitting on the floor at the desk provide whatever play directions might be needed or take down in shorthand what the interjection is with the name and the time context?

**Mr. Brannan:** There are two reasons. First, I do not think anyone can convey in notes or even words to a transcriber what she can observe while she is sitting in that seat. She sees the play that is going on and the way the dialogue is going back and forth. But perhaps the most important thing is that there is no way for that reporter sitting on the floor to get that information or intelligence back to the transcriber in time because she goes straight back into her office, picks up a tape and sits down and starts to type it.

**Mr. Nixon:** What does the interjectionist do?

**Mr. Brannan:** She provides her notes to the editors. The editors, after they get the rough draft, pick up the interjection sheets and read in any interjections that are necessary.

**Mr. Nixon:** It looks unnecessary to me when I see one of your staff in the gallery hour after hour after hour, particularly when another of your staff is at the interjectionist's post. I have a feeling that if that person cannot get it, then maybe it cannot be got.

**Mr. Brannan:** As far as interjections are concerned, the interjectionist on the floor has a much greater capability of getting them because the transcribers do not use shorthand.

It enables the transcriber to leave the office and move to the chamber and it helps her take a break and get away from the word processing screen and the general atmosphere. It has assumed a secondary value from that point of view.

**Mr. Nixon:** Do your transcribers have apprehensions about the VDTs?

**Mr. Brannan:** No, I do not honestly think they do. If they have, it has not been communicated.

There was one transcriber who was a bit concerned about the general reports she was reading, and they are very conflicting. You get reports pro and con. If you believe the worst you read about word processors, I think you would want to come off them very quickly. Most of them recognize there is this discussion going on and that some people are overplaying it and other people are underplaying it. The truth probably lies somewhere in the middle.

There was only one who was a bit concerned. We talked to her to some extent and pointed out the scientific data we had and the tests we had been doing. We told her that, as far as we knew, there was absolutely no fear or danger on those machines. I think even that individual is now content.

We did, very early in the process, go into all the concerns that we perceived. For example, we allowed women to come off the VDTs when they were pregnant. We did provide corrective glasses at the expense of the Legislative Assembly.

**Mr. Nixon:** What do you mean by corrective glasses?

**Mr. Brannan:** Where someone needs glasses to work on a VDT. For example, if you are a person who needs bifocal lenses—

**Mr. Nixon:** I am.

**Mr. Brannan:** —those are useless if you are working on a VDT. You would have to tilt your head up to see or you would have to lean forward to see because the focal length for reading is different to the focal length for operating a terminal. We provide eye examinations and we reimburse anyone who wants to get a special pair of glasses strictly for VDT work and has to buy those glasses.

**Mr. Chairman:** Are we ready to proceed with item 4?

Item 4 agreed to.

**Mr. Chairman:** Shall the supplementary in the amount of \$157,900 also carry?

Supplementary estimate agreed to.

Item 5 agreed to.

Supplementary estimate agreed to.

Item 6 agreed to.

Supplementary estimate agreed to.

Item 7 agreed to.

Supplementary estimate agreed to.

Item 8 agreed to.

Supplementary estimate agreed to.

On item 9, administration:

12:10 p.m.

**Mr. Stokes:** I have already alluded to some of the activities of our administrative office. Since I do not hear any complaints about the way in which Mr. Fleming and Mr. Mitchinson operate the main office, I have to assume that all is well with the world. As I say, I want to pay tribute to them for having compiled all those statistics that stand us in good stead, for those of us who care about such things. Given the interest that has been shown elsewhere in other jurisdictions, I would like to say personally I think they have done an excellent job.

As for Mr. Miggiani, I have not heard any complaints about the financial end of the operation, so I have to assume that all is well with the world down there.

**Mr. Nixon:** He has got the stickiest job of all, I think.

**Mr. Stokes:** Yes, he has. Since I now occupy the office he once did, my secretary sends this note in to me: "After one and a half years, we are still getting boxes of supplies left in this office that should be addressed to room 116 of the north wing. Do you think you might prevail upon the assembly administration to administer this very annoying matter?"

These are the things that keep coming to my office. It is from Electro Sonic; I do not know what they are but they keep coming to us. I know that I actually delivered packages that still come to room 186 to room 116 of the north wing. Hopefully, through the process, you get them. Obviously, they are addressed to you or one of your staff. Would you please phone whoever ships these darn things and tell them you are no longer in room 186?

**Mr. Miggiani:** Mr. Chairman, I would like to reply to Mr. Stokes on this. It is really not our fault because as soon as we move we display our new address on all of the purchase orders. Most companies do not update their records. Probably my address is still in their books and that is why it is shipped out. It is not because we do not stipulate it. Every time we make a purchase, our new address is there. It is not really because we have not pointed out the change. Most companies do not update their records and they just keep on sending it. It is probably computerized and they have not made the changes.

**Mr. Fleming:** I think maybe we could reciprocate because I also get internal documents directed towards Mr. Stokes coming in our door.

**Mr. Stokes:** It is a problem. I do not have anything more on that, but I do know that we

have David MacDonald in here, who is the manager of parliamentary and public affairs. Every time I see his staff in the hall, they are bright-eyed and bushy-tailed and they are happy and—

**Mr. Haggerty:** Good thing somebody around here is.

**Mr. Stokes:** I happen to think the thing is working extremely well. I have had some discussions with Reuben Baetz, the Minister of Tourism and Recreation, and certain members of the committee were wondering why there was a tourism booth over in the Macdonald Block when it should be more appropriately placed over here. I am not talking about something that is going to pre-empt that whole space.

**Mr. Speaker:** If I may just come to that, that is a very sensitive point and I am glad that you are speaking in support of it. Rather than have a tourism office here, I think we should have a proper information office with all available materials and whatever else is needed to make it function. I can tell you that is a topic of active consideration and discussion.

**Mr. Eakins:** The Legislature is where the majority of people visit. They are certainly not passing the door over in the other block where the tourist office and pamphlets are because many of the people in this building do not even know it exists. I think that this is the proper place for it, for something that is comprehensive as Mr. Stokes points out.

**Mr. Speaker:** Virtually every other Legislature in Canada has an information booth or office right where our tour guides are stationed, in that general area, and I think it would be appropriate to have a proper—

**Mr. Stokes:** You could not get a better showcase.

**Mr. Speaker:** No.

**Mr. Stokes:** I would like to ask Mr. MacDonald to update the figures. I do not know how many thousands of school children we get in here a year and how many people come by way of organized tours. I think it would be of interest to members of the committee to fully appreciate the number of people we do get coming in on an annual basis.

**Mr. MacDonald:** We had 60,000 school children through here last year on organized tours. We probably had at least as many individuals come in; we do not have the mechanism for counting people because they come in all different doors. The Grey Coach people drop off

busloads of people here on an hourly basis in the summer. We are encouraging large numbers of other groups, such as women's institutes. We had the Rotary Club in a couple of weeks ago.

**Mr. Stokes:** The Victoria-Haliburton Constituency Association.

**Mr. MacDonald:** Yes, the Victoria-Haliburton people were in. We probably had 100,000, as a guess, last year.

**Mr. Stokes:** You are talking of potentially well in excess of 100,000 people.

**Mr. MacDonald:** Yes, and we are actually looking, as Mr. Speaker indicated, at redesigning our space in the front so we will be able to accommodate information about the province. We put a Telidon system in, which is new. I have noticed there are lineups outside those two units to punch in. They cover information throughout the entire province.

**Mr. Nixon:** If you put Pac-Man in, you would get—

**Mr. MacDonald:** I am trying to find the place to put the quarter in.

**Mr. Stokes:** That is public relations, and I think you are doing an excellent job with the support of Mr. Speaker.

In terms of parliamentary exchanges, could you give me some idea of the number of people you get. If they are coming to Ontario, they invariably end up in Toronto. If they care anything about the democratic process, they will be up here. Could you give us some indication of the number of parliamentary exchanges we have had, say, in the past year?

**Mr. MacDonald:** I can speak for the last six months, the time that I have been in the job. I would also like to thank you very much for the kind comments about the staff and the unit because the people we have doing public relations help out, as well, on the visits we have had.

Since I have been here, in those six months we have had four or five groups come in, under both the auspices of the Commonwealth Parliamentary Association and other parliamentary organizations. Now that we are back in commission, we have been in touch with our counterparts in the other provinces to let them know that we are actively receiving groups and delegations. We have had about 30 or 40 organized groups in.

As members all know, we have a fair number of parliamentarians from other jurisdictions here in Toronto on other business who also turn up. Quite often they walk in the front door and



announce themselves as being members. We have had several of them, but I would not comment on the numbers.

**Mr. Stokes:** Apropos of that, I know that Mr. Fleming, or I think it was Mr. Wilson, put out a one or a two-pager, sort of an in-house document, to let people know in this building—there are 700 or 800 of us around here now—that there was that kind of a document for anybody who cared. It took you three or four minutes to read and you would say: "Oh, that is interesting. That actually went on and I wasn't even aware of it."

**12:20 p.m.**

I'm wondering if it's possible for you, Mr. Fleming, and you, Mr. MacDonald, once a month to get out one sheet, maybe both sides, indicating what's going on internally that will be of interest? It would certainly be interesting to me and most other people to know who those people were on the steps of the Legislature, or why the red carpet was turned out, as it is from time to time. You would say, "Oh, there was somebody from Indonesia," or wherever they happen to come from. It would be kind of interesting to have that coming out just once a month. I'm sure you can do it for a few dollars.

**Mr. Speaker:** Like a newsletter?

**Mr. Stokes:** Yes.

**Mr. MacDonald:** We're attempting to do that as well with some of the other groups that have been in. We send out a one-page notice, certainly in terms of the choirs we've had singing on the staircase. It's an excellent idea to incorporate all of those on a regular basis.

**Mr. Stokes:** It makes it sort of a family kind of affair because we all are so preoccupied with our own immediate duties that we don't fully appreciate what people like you, Mr. MacDonald, do on our behalf and certainly your staff, Bob. It would be a good idea and I don't think it would cost anything or very little anyway.

**Mr. Chairman:** Thank you. Are you ready to vote on that administration item, item 9?

Item 9 agreed to.

**Mr. Chairman:** Shall the supplementary in the amount of \$257,000 also carry?

Supplementary estimate agreed to.

On item 10, constituency offices:

**Hon. Mr. Gregory:** Maybe it's not in the right order, but from time to time, Mr. Speaker, you will remember I brought forward pieces of literature from members. I don't like to bring this up, except that it happens more frequently,

and I must say, Jack, with all due respect, I'm not talking about you, but these very political newsletters seem to be coming from your party. I don't know how we can control them. I just don't know what we do about them.

**Mr. Nixon:** There was one raised in the Legislature yesterday.

**Hon. Mr. Gregory:** Yes, and that was about one of our members.

**Mr. Nixon:** A cabinet minister.

**Hon. Mr. Gregory:** Yes, a cabinet minister, that's right. I just wonder what we do about that.

**Mr. Speaker:** I have referred it to a future meeting with the the Board of Internal Economy because it seems that all three parties are taking turns at being critical. Perhaps we should take a closer look at what is going on and see what can be done to correct the alleged offences.

**Mr. Stokes:** I know our House leader has talked until he is blue in the face, trying to impress upon people that sort of thing is an improper use of the funds we are appropriating here. I want to assure you that it's not for the want of trying. It is a matter of educating these people and impressing upon them—

**Hon. Mr. Gregory:** That's right. It's the individuals themselves. They seem to just go ahead. God, they're coming out in the party colours and saying, "Join us."

**Mr. Speaker:** Most of the time without thinking.

**Mr. Eakins:** If you think those are bad, then you should take a look at the federal ones which are coming out now, which are just in many cases—

**Mr. Nixon:** The taxpayers are sending Christmas greetings to everybody in our constituency on behalf of the federal member. As a taxpayer it just rocks me.

**Mr. Speaker:** The same thing is going on in various places.

**Mr. Haggerty:** I just want to bring something to the attention of the committee here this morning. Where there are government offices, say, in the Niagara region, that have courier service to provide pickup for mail, or for example, somebody is taking a home-study course from the Ministry of Education where they would be sending out textbooks, lately I've been finding this material in my office every week when I go out there. They figure that is the place to leave this information, so that someone will pick it up and it will come back here to Queen's Park.

There may be some cases where a constitu-

ency office is close by a government courier service pickup, for the revenue and tax office in Welland and places like that, but some constituents do not have any direct contact with any of the courier services.

Maybe somebody can take a look at this thing. I don't mind my office being made use of for mail service between government offices, but these courier services going out to government buildings should also serve the members' constituency offices, if they are going to be used for that purpose. I find more and more today that a member's office has become an employment agency office, a welfare office and everything else, where everyone is looking for a job.

However, I suggest to you that I do have quite a bit of mail left in my office. I bring it in, but I think that where there is courier service provided, the constituency office should be able to contact the courier service provided by the Ministry of Government Services and say: "You have a pickup here today. Would you pick it up?"

**Mr. Speaker:** I sometimes get the feeling that I operate a courier service of my own, and I guess all members do.

**Mr. Haggerty:** I am suggesting that it should be—

**Mr. Speaker:** Maybe that is something we could take a look at to see if we can incorporate it.

**Mr. Stokes:** Can I have one for bringing fish, amethyst and handicrafts down from the north?

**Mr. Nixon:** Fly it down.

**Mr. Speaker:** Are you going to bring fish down?

**Mr. Stokes:** I do it on a regular basis.

Item 10 agreed to.

**Mr. Chairman:** Shall the supplementary in the amount of \$583,200 also carry?

Supplementary estimate agreed to.

Vote 1001 agreed to.

**Mr. Chairman:** This completes the estimates of the Office of the Assembly. After routine proceedings this afternoon, this committee will reconvene. We have two or three private bills to consider.

The committee recessed at 12:26 p.m.

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Barlow, W. W.; Chairman (Cambridge PC)  
 Eakins, J. F. (Victoria-Haliburton L)  
 Gregory, Hon. M. E. C.; Minister without Portfolio (Mississauga East PC)  
 Haggerty, R. (Erie L)  
 Hennessy, M. (Fort William PC)  
 Johnson, J. M. (Wellington-Dufferin-Peel PC)  
 Lane, J. G. (Algoma-Manitoulin PC)  
 Martel, E. W. (Sudbury East NDP)  
 Nixon, R. F. (Brant-Oxford-Norfolk L)  
 Samis, G. R. (Cornwall NDP)  
 Stokes, J. E. (Lake Nipigon NDP)  
 Taylor, J. A. (Prince Edward-Lennox PC)  
 Turner, Hon. J. M.; Speaker (Peterborough PC)

### **From the Commission on Election Contributions and Expenses:**

Sullivan, B., Vice-Chairman

### **From the Election Office:**

Bailie, W. R., Chief Election Officer  
 Goodwin, J. D., Chief Financial Officer

### **From the Office of the Clerk:**

Lewis, R., Clerk of the House

### **From the Office of the Assembly:**

Brannan, P., Editor of Debates, Hansard Reporting Service  
 Fleming, R. J., Director of Administration  
 MacDonald, D., Manager, Parliamentary and Public Relations Office  
 Miggiani, J. M., Financial Officer

### **From the Legislative Library:**

Dickerson, M., Head, Information and Reference Service  
 Grayson, Dr. L., Chief, Legislative Research Service  
 Land, Dr. R. B., Director  
 Stoksik, P., Head, Technical Services





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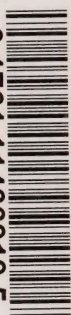






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